

ILLINOIS POLLUTION CONTROL BOARD
September 13, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 72-309
)
TRILLA COOPERAGE, INC.,)
)
 Respondent.)

ORDER OF THE BOARD (by Mr. Seaman)

On September 6, 1973, the Agency, Complainant in the captioned cause, filed a motion requesting an Order by the Pollution Control Board to require Respondent to produce documents. We have before us, also, Respondent's request for a hearing on the issue.

The Hearing Officer in this cause ordered Respondent to produce balance sheets and income statements for the years 1970, 1971 and 1972. Respondent did produce income statements on the date specified but refused to produce balance sheets.

Complainant argues "that the information contained in the subject balance sheets is relevant and necessary to provide this Board with a record sufficient to decide the issue of the economic reasonableness of reducing or eliminating emissions from the Respondent."

The mere allegation that the documents in question are "relevant and necessary" is not sufficient to move this Board to grant Complainant's motion. A more specific reason is required. Further, "the economic reasonableness of reducing or eliminating emissions" is an issue the Board reaches only upon finding violation.

Respondents often introduce financial statements in mitigation; however, this Board will not compel a Respondent to produce such documents where the sole purpose of such evidence is to show the Respondent's capacity to pay. Before the Board will grant a motion to produce financial documents, it must be informed more specifically what the evidence is intended to prove.

Complainant's motion is hereby dismissed without prejudice.

IT IS SO ORDERED.

Mr. Odell abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 13th day of September, 1973 by a vote of 3 to 0.

Christan L. Moffett