

ILLINOIS POLLUTION CONTROL BOARD

January 24, 1991

ELCO INDUSTRIES, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 91-15
	)	(Provisional Variance)
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

CONCURRING OPINION (by J.D. Dumelle):

The preface to Section 35 of the Environmental Protection Act which applies to provisional variances reads:

To the extent consistent with applicable provisions of the Federal Water Pollution Control Act as now or hereafter amended, the Federal Safe Drinking Water Act (P.L. 93-523), as now or hereafter amended, the Clean Air Act as amended in 1977 (P.L. 95-95), and regulations pursuant thereto and to the extent consistent with applicable provisions of the Federal Resource Conservation and Recovery Act of 1976 (P.L. 94-580), and regulations pursuant thereto.

Nowhere in the letter from the Petitioner to IEPA or in the IEPA Recommendation to the Board is there any statement or assertion that the instant petition meets these threshold requirements.

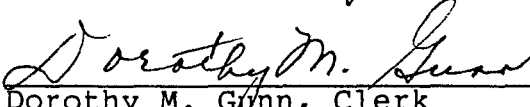
In future filings of all provisional variances, IEPA should provide that statement or assertion that the relief requested is consistent with the applicable Federal Statute.



Jacob D. Dumelle, P.E.  
LCDR-CEC-USNR (Ret)  
Board Member

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was submitted on the 25<sup>th</sup> day of January, 1991.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board