

ILLINOIS POLLUTION CONTROL BOARD  
July 9, 1992

NORTH SHORE	)	
SANITARY DISTRICT,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 92-92
	)	(Variance)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by B. Forcade):

On June 19, 1992, North Shore Sanitary District (North Shore) filed a petition for variance for its Waukegan Treatment Plant. This petition was filed in response to an April 25, 1991 Board order in R86-3 that refused North Shore's filing of an "Amended Petition" and suggested that the filing of a petition for variance may be proper. North Shore filed the amended petition to satisfy a condition of a wastewater treatment works loan from the Environmental Protection Agency (Agency). North Shore asserts that it did not receive a copy of the Board order until June 9, 1992, when a copy was faxed from the Agency. A review of the Board's procedures and records provides no explanation why North Shore did not receive a copy of the order.

The Board recognizes the difficulty that North Shore has encountered in attempting to comply with the loan condition. The Board also notes that North Shore is not solely responsible for the inappropriate captions and the delay in filing in this matter. North Shore filed the "Amended Petition" at the instruction of the Agency and claims to have not been promptly notified of the Board's refusal to accept that petition. However, the Board is compelled to follow the requirements of the Environmental Protection Act and the Board's rules and regulations and insist that all filings satisfy the required standards.

While the Board finds that a request for variance is proper in these circumstances, the petition is deficient in that it fails to provide:

1. A request for hearing on the petition if desired by petitioner; or, in the alternative, a statement waiving a hearing accompanied by such affidavits or other proof in support of the material facts alleged in the petition as the petitioner may submit, sufficient to enable the Board, if it so decides, to rule upon the petition without a hearing, as required by 35 Ill. Adm. Code 104.124.

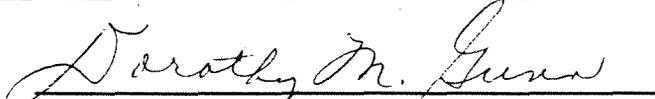
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2. The information required by 35 Ill. Adm. Code 104.121. and 104.122(b). The applicable information includes information on: the business and activity of the petitioner (104.121(b)), the materials discharged from the operation (104.121(d)), environmental impact of the variance (104.102(g)), measures to be taken during the variance to minimize the impact (104.121(j)), arbitrary and unreasonable hardship (104.121(k)) and consistency with Federal regulations (104.122(b).) While some of this information was addressed in the rulemaking proceeding it is necessary to update this information and include the applicable information in the petition for variance.
3. Proof of service (35 Ill. Adm. Code 101.143) showing that a copy of the petition for variance was filed with the Agency. (35 Ill. Adm. Code 104.120.)

Unless an amended petition for variance is filed within 45 days of the date of this order, curing the above-noted defect(s), this matter will be subject to dismissal. The Board notes that for purposes of calculation of the decision deadline pursuant to Section 38 of the Act, the filing of an amended variance petition will restart the Board's 120 day deadline.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 9<sup>th</sup> day of July, 1992, by a vote of 6-0.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board