ILLINOIS POLLUTION CONTROL BOARD
September 7, 1971

G. L. MILLER MOTOR SALES, INC.	)	
	)	
	)	
v.	)	# PCB71-260
	)	
	)	
ENVIRONMENTAL PROTECTION AGENCY	)	

Preliminary Order:

Miller seeks a variance to permit connection of a new auto sales and service building to sewers tributary to an overloaded treatment plant in the North Shore Sanitary District. The question before us today is whether or not to authorize a hearing.

Our decisions have spelled out many of the relevant considerations for determining whether or not the hardship of a variance denial is so great as to justify the additional pollution that new connections would cause. The nature and extent of actions taken to commit the petitioner before the date of our sewer connection ban (March 31, 1971) are highly relevant, as is made clear by such decisions as Wachta v. EPA, # 71-77 (July 12, 1971), Wagnon v. EPA, # 71-80 (July 19, 1971), and Scott Volkswagen v. EPA, # 71-112 (August 13, 1971). In the present case it is alleged that at the time of the petition the building was "under construction," but it is not clear what was the status of the project as of March 31. We will require proof that this case satisfies the conditions set by previous decisions. Such proof can most expeditiously be made by affidavit, obviating the need for an expensive and time-consuming hearing. We therefore order the company to submit, within twenty days of this order, such further information by affidavit as may be necessary, in the light of this order and of our prior decisions, to prove the elements of the petitioner's case. The Agency will then be given ten days after the receipt of such affidavits to make whatever additional recommendations or comments it chooses

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above Preliminary Order this 7th. day of September, 1971.

Regina E. Ryan