

ILLINOIS POLLUTION CONTROL BOARD
December 17, 1981


AMAX COAL COMPANY,)
A DIVISION OF AMAX, INC.,)
)
Petitioner,)
)
v.) PCB 81-186
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by I. Goodman):

On November 18, 1981 Amax Coal Company (Amax) filed a variance pertaining to an Order entered by the Board in PCB 71-323, or in the alternative a delegation of its authority to the Illinois Environmental Protection Agency (Agency) to modify the terms of that Order. The Board took jurisdiction of this variance petition on December 3, 1981. On December 16, 1981 Amax moved to withdraw its petition, conditioned on the Agency being ordered to release Surety Bond No. 91-350145. Since the Board cannot delegate to the Agency authority to modify the Order in PCB 71-323, the relief Amax seeks lies properly in a variance proceeding. The Order entered in PCB 71-323 being still effective, and the Board having jurisdiction in this matter, Amax's Motion to Dismiss is hereby denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 17th day of December, 1981 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board