

ILLINOIS POLLUTION CONTROL BOARD
June 10, 1982

BEKER INDUSTRIES CORPORATION,)
)
Petitioner,)
)
v.) PCB 80-224
)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

CONCURRING OPINION (by J. Anderson):

I concur with this order with reluctance.

Prior to the Board's April 29, 1982 Order granting variance, neither Beker nor the Agency included in the record any information that the defluorination facility was activated over two years ago, or the basis for the Agency's apparent approval of the startup. This was hardly a minor omission.


The September 20, 1979 Variance Order (PCB 79-9, 35 PCB 389) addressed a particular production process. There appears to be an assumption that that variance could continue to be relied upon with a new production process. To start a new process without the Board's knowledge and before a Board determination of what changed variance conditions are acceptable under the new process is, at the very least, an unacceptable attempt to exercise clairvoyance.

I believe that the condition in the Board's April 29, 1982 Order from which relief was requested was appropriate, given the record before the Board. Nevertheless, given the present fait accompli noted in the supplemented record, I believe that the deletion of the condition is the best action available.

However, I would emphasize that the Board is fully capable of, and, indeed, charged with the responsibility for granting in a timely fashion whatever variances are appropriate to deal with changes in operating circumstances.


Joan G. Anderson, Board Member

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was filed on the 18th day of June, 1982.


Christan L. Moffett, Clerk
Illinois Pollution Control Board