

ILLINOIS POLLUTION CONTROL BOARD
March 19, 1987

CHICAGO, CENTRAL AND PACIFIC)
RAILROAD,)
)
Petitioner,)
)
v.) PCB 87-30
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by B. Forcade):

On March 9, 1987, the Chicago, Central and Pacific Railroad ("CCPR"), by its consultant, NYP and Associates, filed a petition for variance. That petition appears to request a permanent variance from Section 22.2 of the Environmental Protection Act ("Act") as that Section might require individual vehicle identification for transporters of hazardous waste. That petition contains a number of conceptual and procedural defects. The Board will identify some of those defects and provide the petitioner 45 days to file an amended petition curing those defects. However, the Board notes that the relief that CCPR appears to request (permanent relief) is not available through the mechanism of a variance. Second, the Board notes that the transportation of hazardous waste is subject to an intricate scheme of state and federal regulations. In appropriate circumstances, the Board may grant temporary relief from some of those regulatory requirements if they are identified with sufficient particularity and the circumstances justify temporary relief. Today's petition fails to identify the legal requirements from which CCPR seeks relief with sufficient particularity and fails to provide sufficient factual basis for granting temporary relief. The Board urges CCPR to review the provisions of 35 Ill. Adm. Code Part 104 in detail and to advise the Board in writing, within 45 days, regarding how CCPR intends to proceed.

The Board finds that the March 9, 1987, petition for variance filed by CCPR is deficient in that it fails to include:

- 1) A clear and complete statement of the precise extent of the relief sought, including specific identification of the particular provisions of the regulations or Board Order from which the variance is sought;

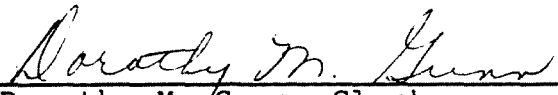
- 2) A description of the business or activity of the petitioner including the size of the business and number of employees and a description of the location and area affected by petitioner's operations;
- 3) The quantity and types of materials used in the process or activity for which the variance is required and a full description of the particular process or activity in which the materials are used;
- 4) Data describing the nature and extent of the present failure to meet the numerical standards or particular provisions from which the variance is sought and a factual statement why compliance with the Act and regulations was not or cannot be achieved by the required compliance date;
- 5) A detailed description of the existing and proposed equipment or proposed method of control to be undertaken to achieve full compliance with the Act and regulations, including a time schedule for the implementation of all phases of the control program from initiation of design to program completion and the estimated costs involved for each phase and the total cost to achieve compliance;
- 6) An assessment, with supporting factual information, of the environmental impact that the variance will impose on human, plant, and animal life in the affected area, including, where applicable, data describing the existing air and water quality which the discharge may affect;
- 7) Past efforts to achieve compliance including costs incurred, results achieved, permit status;
- 8) A discussion of the availability of alternate methods of compliance, the extent that such methods were studied, and the comparative factors leading to the selection of the control program proposed to achieve compliance;

- 9) A statement of the measures to be undertaken during the period of the variance to minimize the impact of the discharge of contaminants on human, plant, and animal life in the affected area;
- 10) A concise factual statement of the reasons the petitioner believes that compliance with the particular provisions of the regulations or Board Order would impose an arbitrary or unreasonable hardship;
- 11) A statement indicating whether the Board may grant the requested relief consistent with the Resource Conservation and Recovery Act and Federal Regulations adopted pursuant thereto; and
- 12) Proof of service upon the Illinois Environmental Protection Agency.

Unless an amended petition curing the above-noted defects is filed within 45 days, this matter will be subject to dismissal

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 19th day of March, 1987, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board