

ILLINOIS POLLUTION CONTROL BOARD  
August 28, 1986

ILLINOIS MILITARY AND	)	
NAVAL DEPARTMENT,	)	
	)	Petitioner,
	)	
	)	v.
	)	PCB 86-123
	)	
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
	)	Respondent.

ORDER OF THE BOARD (by J. Anderson):

On August 14, 1986, the Board entered an Order granting expedited consideration of a petition for variance from 35 Ill. Adm. Code 201.144 filed the same day by the Illinois Military and Naval Department (IMND). In that Order, the Board construed the exemption contained in Section 201.146(c) as applying to the National Guard Armory building in question, and proposed to dismiss the action on the grounds that variance was unnecessary. The Board solicited an expedited response from the Agency, which response was made in the form of a motion to dismiss filed August 21, 1986. IMND has filed no response to the motion. However, on August 21, IMND filed copies of materials which it had inadvertently failed to enclose with its August 14 petition.

The Agency moves to dismiss on the grounds that the request for variance relief is premature, in that the permit for the Chicago Avenue National Guard Armory does not expire until May 9, 1989. The Agency also notes that in the R79-14 "Chapter 2 Clean-Up" regulatory proceeding, that it has proposed that the Section 201.146(c) exemption "be changed to unquestionably exempt these small gas-fired boilers from permit requirements", and that therefore "the issues presented in this case will probably never require litigation or decision".

The Board agrees with the Agency that the variance relief requested for the Chicago Avenue Armory regarding a permit expiring three years hence is premature, and for this reason dismisses this petition. The Board notes however, IMND's assertion in its August 14 petition that the Chicago Avenue Armory was chosen as a test case, because of its boilers' larger firing rates and location in Air Quality Control Region 67, "to determine the desirability to file similar petitions for an additional 31 sites". Given the Board's August 14, 1986

determination that armory uses are "residential or commercial" uses within the meaning of the Section 201.146(c) exemption, the Board believes variance relief is not necessary for the 31 additional sites, provided that their heating systems otherwise comply with the exemption's fuel and capacity limitations.

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 28<sup>th</sup> day of August, 1986 by a vote of 6-0.

Dorothy M. Gunn  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board