

ILLINOIS POLLUTION CONTROL BOARD  
July 24, 1980

ALLIS-CHALMERS, )  
)  
Petitioner, )  
)  
v. ) PCB 80-85  
)  
ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
)  
Respondent. )

ORDER OF THE BOARD (by I. Goodman):


On May 1, 1980 the Board ordered Petitioner to amend its petition for variance pursuant to Rule 401 of the Board's Procedural Rules.

On June 2, 1980 the Board received a waiver of hearing. Under Procedural Rule 401(b), waivers of hearing must be accompanied by "such affidavits or other proof in support of the material facts alleged in the petition ... sufficient to enable the Board ... to rule upon the petition without a hearing." The petition contains no affidavit. It also contains no proof supporting any of the facts alleged which would be sufficient to enable the Board to rule on the petition without a hearing.

Without determining whether ordering a hearing in this matter would rectify this inadequacy of pleading, the Board will accept the Agency Recommendation filed in this matter, and will proceed with decision on the petition as it now stands, if and only if Petitioner files an affidavit with the Board within 21 days of the date of this Order averring that all the facts set forth in its petition dated April 16, 1980 and received by the Board on April 21, 1980 are true. Failure to submit such affidavit will subject the petition to dismissal, without prejudice, pursuant to Procedural Rules 407(b)(1) and 407(f).

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 24<sup>th</sup> day of July, 1980 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board