

ILLINOIS POLLUTION CONTROL BOARD

November 22, 1974

MINERVA OIL COMPANY,)
)
 Petitioner,)
)
 vs.) PCB 74-374
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by Mr. Henss):

On October 17, 1974 Minerva Oil Company filed "Petition for Variance from the Water Pollution Regulations of Illinois". Two weeks later the Environmental Protection Agency filed a Motion to Dismiss contending that the variance petition does not comply with Rule 401 of the Board's Procedural Rules. The Board did not immediately rule on the Motion to Dismiss since we had been informed that Petitioner intended to file an amended petition. No such amended petition has been filed.

The Petition for Variance consists of a long narrative presentation such as one might expect to find in an argument or brief. It does not comply with Rule 401 of our Procedural Rules in format or in content. We have no alternative but the dismissal of this petition. If Minerva Oil Company chooses to file a new Petition for Variance it should be prepared in compliance with the provisions of Rule 401. That Rule provides:

"401 Petition. (a) A variance proceeding shall be commenced by filing a petition for variance with the Agency and by filing ten copies of the petition with the Clerk of the Board. To the extent necessary to enable the Board to render its decision, the petition shall contain the following:

(i) specific identification of the particular provisions of the Environmental Protection Act or regulations from which the variance is sought;

(ii) a description of the business or activity in question;

(iii) the quantity and type of raw materials processed, and a description of the particular process or activity in which the raw materials are used.

(iv) an estimate of the quantity and type of contaminants discharged;

(v) data showing the nature and extent of the present failure to meet the particular provisions from which the variance is sought;

(vi) a description of existing and proposed equipment for the control of discharges;

(vii) a time schedule for bringing the activity into compliance;

(viii) a detailed description of the program to be undertaken to achieve compliance, including a time schedule of all phases involved from initiation to completion and the estimated costs involved;

(ix) an explanation of why petitioner believes the program proposed will achieve compliance.

(x) details as to past efforts to achieve compliance and results achieved.

(b) a concise statement of why the petitioner believes that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship, including a description of the costs that compliance would impose on the petitioner and others, information as to the feasibility of alternatives available to abate the violations and their costs.

(c) The injury that the grant of the variance would impose on the public including the effect that continued discharge of contaminants will have upon the air, water or land.

(d) If the petitioner seeks a delay in complying a statement of the reasons for such delay.

(e) A clear statement of the precise extent of the relief sought.

(f) The petition may be accompanied by such affidavit or other proof as the petitioner may submit in order to make it possible for the Board, if it so decides, to dispose of the matter without a hearing.

It is Ordered that the Motion to Dismiss be allowed and the Petition for Variance be and it is hereby dismissed without prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted this 22nd day of November, 1974 by a vote of 4 to 0.

Christan L. Moffett