

ILLINOIS POLLUTION CONTROL BOARD

February 14, 1975

AMF INCORPORATED, )  
Petitioner, )  
 )  
v. ) PCB 74-319  
 )  
ENVIRONMENTAL PROTECTION AGENCY, )  
Respondent. )

INTERIM ORDER OF THE BOARD (by Dr. Odell)

On August 20, 1974, AMF Incorporated (AMF) filed its Petition for Variance with the Pollution Control Board (Board). The Board requested Additional Information in its Order of September 5, 1974. On September 18, 1974, a neighbor of AMF filed her objection to the grant of a variance. When the Petitioner failed to supply the requested additional information, the Board dismissed the Petition for Variance October 24, 1974. AMF filed a Motion for Reconsideration on November 12, 1974, stating it had never received the Additional Information Order of September 5, 1974. The Environmental Protection Agency (Agency) responded on November 22, 1974, to the Motion for Reconsideration and supported the Petitioner's request. On the same day, the Board reinstated the Petition for Variance, and the 90 day period for decision began to run from that date. On February 5, 1975, the Agency recommended that the variance be denied because Petitioner had failed to prove it was unable to procure sufficient quantities of exempt solvents to achieve compliance with Rule 205(f) of the Air Pollution Regulations (Chapter Two). Petitioner responded with a Waiver Right To Decision Within Ninety Days on February 10, 1975. We interpret the February 10, 1975, response as a Petition To Reply To Agency Recommendation. We grant the Petition and rule that this case be set for hearing. We believe that a hearing is justified for the following reasons:

1. A hearing is the proper forum for submission of evidence on the issue of whether there exists an industry-wide shortage of exempt solvents and whether Petitioner's inability to obtain such solvents is a self-imposed hardship.

2. A neighbor of AMF objected to the grant of the variance within a month of the filing of the August 20 Petition for Variance. While this objection does not mandate a hearing under Section 37 of the Environmental Protection Act (Act), a hearing provides a means whereby the Board can determine the nature and extent of this citizen's interference from Petitioner's activities.

Petition To Reply To Agency Recommendation is granted. A hearing shall be held as soon as possible on the issues indicated above. Although Petitioner has waived his right to final decision until and including March 28, 1975, the Board requests an extension until and including April 25, 1975. This extension should be filed by February 28, 1975. The additional time is necessary to enable the Board to determine whether the Petitioner has met its burden of proof at the hearing.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 14<sup>th</sup> day of February, 1975, by a vote of 3 to 0.

  
Christan L. Moffett