ILLINOIS POLLUTION CONTROL BOARD May 12, 1971

LLOYD A. FRY ROOFING CO.

v.

71-4, 71-33

ENVIRONMENTAL PROTECTION AGENCY

Opinion of the Board (by Mr. Currie):

This case was commenced by the filing of a variance petition respecting air contaminant emissions from a roofing plant in Summit. Subsequently a complaint was filed against the company by a group of citizens, and the two proceedings were consolidated for hearing purposes. At the close of the complainants' case they filed a motion asking that we enter a temporary cease-and-desist order restraining the company from emitting contaminants pending completion of the hearing.

The analogy of course is to a temporary restraining order or preliminary injunction entered by a court of equity in order to prevent irreparable harm while the main case is being tried. The Environmental Protection Act, however, does not grant this Board authority to enter such an order. Board orders, authorized by section 33(a) of the Act are "final" orders entered after consideration of the evidence and arguments submitted at the hearing, not after the close of one party's case; and the emergency enforcement provisions of section 34 authorize the Agency to take summary action to seal an offending facility, not the Board to enter orders before completing its hearings. There may well be cause for interim relief in some cases of severe pollution, but the place to obtain such relief is in court.

The motion is denied. This opinion constitutes the Board's findings of fact, conclusions of law, and order.

I, Regina E. Ryan do hereby certify that the above Opinion was approved by the Board on the 12 day of May , 1971

, 1971