

ILLINOIS POLLUTION CONTROL BOARD
December 3, 1987

CONTAINER CORPORATION OF AMERICA,)
)
Petitioner,)
)
v.) PCB 87-183
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board upon Petitioner's Petition For Variance dated November 30, 1987. As a threshold matter, the proposed compliance plan is inadequate. Specifically, the schedule proposed in lieu of the site-specific rule change sets forth compliance dates too distant in the future. Also, the Petition requests a variance in order to install certain control equipment or pursue a site-specific rule change. Petitioner has indicated that it may challenge the validity of the regulation. In Village of Carey v. IPCB 403 NE2d 83 (2nd Dist., 1980) the court stated as follows:

When the validity of a regulation has been challenged; as in this case, the Board may properly consider the evidence received ... when it adopted ... the regulation ... and that evidence should be made a part of the record ... for purposes of judicial review.

Accordingly, the Board orders the parties to present arguments concerning the burdens of proof, standards of review and relevant evidence to be considered at such hearing. If an amended petition curing the above-noted defects is not filed within 45 days from the date of this Order, along with the information required by this Order, this matter will be subject to dismissal.

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 3rd day of December, 1987 by a vote of 7-0.

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