June 10, 1982

BEKER IN	DUSTRIES	CORPORATION,)		
		Petitioner,)		
	v.))	PCB	80-224
ILLINOIS AGENCY,	ENVIRON	MENTAL PROTECTIO)) ON)		
		Respondent.)		

DISSENTING OPINION (by D. Anderson):

On September 20, 1979, the Board entered an Order in PCB 79-6 granting Beker Industries Corporation (Beker) a variance subject to conditions which included a program for neutralization of its cooling pond within 120 days. Rather than comply with these conditions, Beker filed this petition for a variance from them some 14 months after the Order was entered. Beker failed to file a motion for reconsideration objecting to any provisions of the September 20 Order.

According to analyses attached to the Agency Recommendation of May 21, 1981, water in the cooling pond has a pH as low as 2.7. The water contains fluoride and heavy metals, as well as many other pollutants.

Beker has incomplete information on the design of the lagoon. Agency data indicates that soils in the area are permeable with high water tables and are not suitable for this type of lagoon (Amended Recommendation of February 8, 1982). It is quite possible that the lagoon contents are percolating into the ground water. Accordingly the Board, in its April 29, 1982 Order, required Beker to install monitoring wells prior to starting its new heated discharge to the pond.

Beker has now come before the Board to request modification of the monitoring condition, informing the Board for the first time that it had started its new discharge in February, 1980. This fact was not revealed in the December 9, 1980 petition or in any subsequent pleadings. The Board was thus not given a full description of the process as required by Procedural Rule 401(a)(3).

Donald B. Anderson, Board Member

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Dissenting Opinion was filed on the 177 day of Leve, 1982.

Christan L. Moffett) Clerk
Illinois Pollution Control Board