

ILLINOIS POLLUTION CONTROL BOARD
September 26, 1991

MATERIAL SERVICE CORP. and,)
CITY OF GEORGETOWN,)
)
Petitioner,)
)
v.) PCB 91-181
) (Provisional Variance)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by J.C. Marlin):

This matter comes before the Board on receipt of an Agency Recommendation dated September 25, 1991. The recommendation refers to a request from Petitioners, Material Service Corp. and the City of Georgetown, for a provisional variance from the permit application requirements, as set forth in 35 Ill. Adm. Code 309.103(d), for the period when the Petitioner, Material Service Corp., begins discharging from its Fairmount Quarry into the tributary of the Vermillion River, and continuing until NPDES permit IL0063002 is modified to include this discharge, but not for longer than 45 days.

The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency agrees that the discharge is necessary. The Agency anticipates that the requested provisional variance would have no adverse environmental impact. The Agency is unaware of any public water supplies that the requested provisional variance would adversely impact. In fact, the Agency points out that the discharge would benefit a public water supply. The Agency maintains that a grant of a provisional variance would violate no federal laws. The Agency finds that a denial of the requested provisional variance would create an arbitrary and unreasonable hardship on the Petitioner.

The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. See Ill. Rev. Stat. 1989, ch. 111½, pars. 1035(b) & (c). In provisional variances it is the responsibility of the Agency to make the technical determinations and finding of arbitrary or unreasonable hardship. The Board's responsibility is to adopt a formal Order, to assure the formal maintenance of the record, to assure the enforceability of the variance, and to provide notification of the action by a press release.

Having received the Agency recommendation finding that a denial of the requested relief would impose an arbitrary and

unreasonable hardship, the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 309.103(d), on the following conditions:

1. The term of this provisional variance shall commence when the Petitioner, Material Service Corp., initiates discharging water from its Fairmount Quarry into the tributary of the Little Vermillion River, and it shall expire on the date NPDES permit IL0063002 is modified to include this discharge, or after 45 days have elapsed, whichever comes first;
2. The Petitioner shall notify Joe Koronkowski of the Agency's Champaign Regional office by telephone, at 217-333-8361, when the discharge begins, and Petitioner shall confirm this notice in writing within five days, addressed as follows:

Illinois Environmental Protection Agency
Division of Water Pollution Control
Compliance Assurance Section
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

Attention: Mark T. Books

3. The Petitioner shall execute a copy of a Certificate of Acceptance of this provisional variance and forward that copy to the Agency addressed as is the written notice required in the above condition; the Petitioner shall forward that copy within 10 days of the date of this Order of the Board, and the Certificate of Acceptance shall take the following form:

CERTIFICATION

I (We), _____,
hereby accept and agree to be bound by all terms
and conditions of the Order of the Pollution
Control Board in PCB 91-181, September 26, 1991.

Petitioner

Authorized Agent

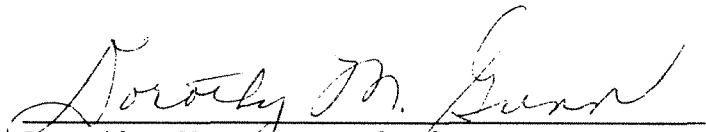
Title

Date

IT IS SO ORDERED.

J.D. Dumelle concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control
Board, do hereby certify that the above Order was adopted on the
26th day of September, 1991, by a vote of
7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board