

ILLINOIS POLLUTION CONTROL BOARD
October 14, 1982

JOHN L. DONOVAN,)
)
) Petitioner,)
)
) v.) PCB 81-134
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
) Respondent.)

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

On August 21, 1981 John C. Donovan filed this petition for a variance from Chapter 8: Noise Pollution. Citizens, including Marjorie Ferrill, Loren Otto, Kathryn Otto, Greg Otto, Karen Otto, Dean Yoder and Phyllis Yoder, filed objections to the variance. On October 2, 1981 these objectors filed a petition for leave to intervene. The Board hereby grants these objectors leave to intervene.

A public hearing was held on March 24, 1982. Under 35 Ill. Adm. Code 104.202 the transcript was to have been filed within 15 days. It has not yet been filed. The delay serves as an automatic extension of the 90-day decision period of Section 38 of the Environmental Protection Act.

On September 20, 1982 the intervenors filed a motion to dismiss, supported by affidavit, alleging that the transcript was in fact completed on June 1, 1982, that Donovan's attorney obtained a copy of the transcript on July 1, 1982 and that these facts have caused unreasonable delay which has inconvenienced the intervenors. Intervenors state that Petitioner's blasting operations have continued in violation of Board regulations without a variance during the period of delay. Petitioner has filed no response.

Unless Donovan files the transcript within 15 days of the date of this Order or shows good cause why it has not been and cannot be so filed, this variance petition will be dismissed with prejudice.

IT IS SO ORDERED.
Board member I. Goodman dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 14th day of October, 1982 by a vote of 4-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board