

ILLINOIS POLLUTION CONTROL BOARD
May 26, 1977

CITY OF GIBSON CITY,)
)
 Petitioner,)
)
 v.) PCB 77-96
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

INTERIM ORDER OF THE BOARD (by Mr. Young):

The Recommendation filed by the Agency on April 25, 1977, is construed by the Board to be an objection to the grant of the requested variance. As stated in Material Service Corp. v. PCB (3rd Dist. 1976) 41 IllApp3rd 1972, 194, 354 NE2d 37:

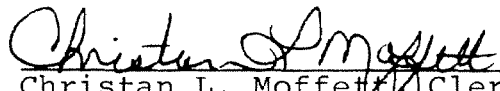
"It appears obvious that the legislation enacted by the State legislature requires that a hearing be granted to petitioner, in view of the fact that the Environmental Protection Agency has filed objection thereto prior to any action by the Pollution Control Board. Obviously, if the Environmental Protection Agency had filed an objection after 21 days, but before action by the Pollution Control Board, it could hardly be consistent with the objectives of the Act to have the Pollution Control Board then say that the Environmental Protection Agency is too late and that the Board will simply accept the statements of petitioner as true, ignore the Environmental Protection Agency, and grant the variance. Similarly, prior to any action by the Pollution Control Board, when the Environmental Protection Agency has filed objections, the Board could not, consistently, arbitrarily dismiss the petition, when the Environmental Protection Act stresses the need for a hearing, if any objection is filed before the Board has acted."

In accordance with Material Service, this matter is hereby set for hearing. Petitioner is requested to file a waiver of the 90-day decision period set by statute so that the hearing may be held.

In the event that the City of Gibson City finds the conditions recommended by the Agency acceptable, the City should promptly inform the Agency and the Board of its position as the aforementioned hearing may then be unnecessary.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Order was adopted on the 26th day of May, 1977 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board