

ILLINOIS POLLUTION CONTROL BOARD

May 8, 1975

MATERIAL SERVICE CORPORATION, )  
    Petitioner, )  
                                  )  
                                  )  
    v. )           PCB 75-64  
                                  )  
                                  )  
ENVIRONMENTAL PROTECTION AGENCY, )  
    Respondent. )

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On February 13, 1975, Material Service Corporation filed a Petition For Variance with the Illinois Pollution Control Board (Board). Petitioner sought a one-year variance from the particulate limitations under Rule 203(f) of the Air Pollution Regulations (Chapter Two). Petitioner became subject to this Rule on April 14, 1973.

Material Service Corporation operates a shale sizing facility 3 1/2 miles east of Ottawa, Illinois on the north bank of the Illinois River. The facility processes mined shale into a product used in making concrete. The shale passes through various crushers and vibrating screens in the Shale Sizing Plant. The shale moves over conveyors to kilns where the shale is expanded or into a storage area and then into the kilns. In the Finished Products Building, the shale is screened and sorted. The shale then moves to the Finished Products Storage Piles. Shale not sufficiently crushed goes through a recrusher area before going into the Finished Products Storage Piles. To complete Petitioner's activities, the product is shipped from the facility by truck, railroad, or barge.

Material Service Corporation believed that the Shale Sizing Plant was in compliance with all applicable air pollution regulations. However, noting that the Illinois Environmental Protection Agency (Agency) had refused to issue a permit for this operation, Petitioner requested a variance for this operation until substantial improvements can be completed. The Agency had also refused to issue permits for the finished product portion of the facility (the recrusher area and Finished Products Storage Piles area). Petitioner stated that it was unable to compute the amounts of these emissions, but it requested a variance until substantial improvements were carried out in that portion of the facility. Specifically, Petitioner stated that the following improvements would be made in these two areas within the next 12 months:

"13. Material Service proposes to improve the Shale Sizing Plant by replacing the hammer mill, presently used as a secondary crusher, with a gyratory crusher, which will reduce the generation of "fines" throughout the entire operation of the plant, and by refurbishing and adding further enclosure in the receiving area and by installing a new dust collection device, together with new ducts, collection fans and discharge vents.

"14. Material Service proposes to bring the finished products operation into compliance by:

- (a) completely enclosing the Recrush Operation;
- (b) constructing a dust collection system for the new enclosure; and
- (c) refurbishing the enclosed drop chute, or stacker, for the fine finished product stockpile.

All of the above are more fully set out in the technical drawings which are attached hereto as Exhibit "A". Material Service expected the compliance plan to cost approximately \$700,000.

Material Service Corporation alleged that the grant of the variance would not have a severe environmental impact on the area because of the rural nature of the community. Petitioner employs 110 people and helps to generate employment for an additional 100 support industries.

The Agency filed its Recommendation on April 4, 1975. The Agency included copies of the permit denials of January and February 1973 referred to in the Petition For Variance. A December 1974 warning letter about permit delinquencies was also included in the Recommendation. The Agency believed that Petitioner also needed a variance from Rule 203(a) of Chapter Two since compliance with Rule 203(b) was not achieved by April 14, 1972. The Agency calculated Petitioner's emissions as follows:

<u>Source</u>	<u>Standard Under Rule 203(a) (lbs/hour)</u>	<u>Petitioner's Emission Rate (estimated lbs/hour)</u>
Expanded Shale System	31	385
Fine Mill	6.5	36

The Agency recommended that the Petition For Variance be denied although it concluded that Petitioner's compliance program would satisfy the requirements of the regulations and that the timetable appeared reasonable. The Agency argued that Petitioner had failed to establish any arbitrary or unreasonable hardship. No information was included in the petition explaining the delay in achieving compliance. The Agency noted that no complaints had recently been received from area citizens but that the LaSalle County Civil Defense Office had stated that, in the past, complaints had been received from persons residing downwind of the facility.

We deny the variance. While Petitioner has a reasonable program of compliance, this does not satisfy the test for a variance. No arbitrary or unreasonable hardship has been shown. No explanation was given why compliance efforts have been delayed for such a long time. While Petitioner may not have been initially aware that its facility had any emission problem, the denial of the permits in early 1973 should have prompted Petitioner to undertake efforts to satisfy the regulations. Since Petitioner has failed to show any arbitrary or unreasonable hardship, the variance is denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 8<sup>th</sup> day of May, 1975 by a vote of 5 to 0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board