



Nestle alleges that denial of the variance would impose a financial hardship of some \$425,000 incurred in operating expenses. Although it believes the financial hardship claimed by Nestle may be somewhat overstated, the Agency agrees that the cost to Nestle is substantial. The Granite City area is designated as nonattainment for primary particulate standards. However, it is probable that monitoring stations are not substantially affected by emissions from Nestle since its total emissions presently exceeding the standard are less than 50 tons per year of particulate matter, and the evidence indicates that most of that weight consists of particles of large diameter that settled within the Nestle property. The Agency believes the time requested for the installation of the equipment is reasonable and recommends grant of the proposed variance.

The Board finds that Nestle cannot presently comply with the standards of Rule 203(a) of the Regulations. Considering the short length of time requested for the variance and the apparent lack of environmental harm, the Board finds it would be an arbitrary and unreasonable hardship on Nestle to deny the variance. The Board will, therefore, grant Nestle the requested variance until March 15, 1979, under certain conditions.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that Nestle Company, Incorporated, be granted variance from Section 9(a) of the Environmental Protection Act and Rule 203(a) of the Air Pollution Control Regulations until March 15, 1979, for its facility located in Granite City, Illinois, under the following conditions:

- A. Nestle shall execute the proposed schedule of compliance contained in its July 18, 1978 petition, which petition is incorporated by reference as if fully set forth herein.
- B. Nestle shall post a performance surety bond in the amount of \$2,000 for the purpose of assuring compliance with the Regulations pursuant to the Environmental Protection Act. The bond shall be submitted to the Agency, at the following address: Environmental Protection Agency, Division of Air Pollution Control, Control Program Coordinator, 2200 Churchill Road, Springfield, Illinois 62706.

C. Within 45 days of the adoption of this Order, the Nestle Company, Incorporated, shall execute and forward to the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 a Certification of Acceptance and Agreement to be bound to all terms and conditions of this Order. The 45 day period shall be held in abeyance during any period this matter is being appealed. The form of said certification shall be as follows:

CERTIFICATION

I (We), \_\_\_\_\_ having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 78-191, hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

SIGNED \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 1<sup>st</sup> day of March, 1979 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board