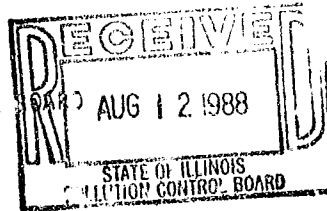


**Original Do Not Remove**

BEFORE THE ILLINOIS POLLUTION CONTROL



MODERN DROP FORGE COMPANY, )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

PC3 88-121

NOTICE

TO: Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, IL 60601

Mr. Michael A. Stick  
Butler, Rubin, Newcomer, Saltarelli & Boyd  
Suite 1505  
Three First National Plaza  
Chicago, IL 60602

PLEASE TAKE NOTICE that I have today filed with the Office of the  
Clerk of the Pollution Control Board the  
AGENCY RECOMMENDATION

of the Illinois Environmental Protection Agency, a copy of which is  
herewith served upon you.

ENVIRONMENTAL PROTECTION AGENCY  
OF THE STATE OF ILLINOIS

BY: Gary P. King  
Gary P. King  
Attorney  
Enforcement Programs

DATE: August 11, 1988  
Agency File #

2200 Church Hill Road, P. O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

STATE OF ILLINOIS )  
COUNTY OF SANGAMON )

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached

AGENCY RECOMMENDATION

upon the person to whom it is directed, by placing a copy in an envelope addressed to:

Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, IL 60601  
(AIRBORNE EXPRESS)

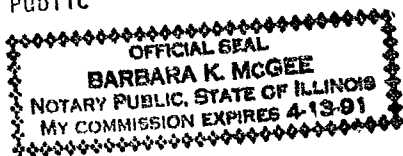
Mr. Michael A. Stick  
Butler, Rubin, Newcomer, Saltarelli & Boyd  
Suite 1505  
Three First National Plaza  
Chicago, IL 60602  
(FIRST-CLASS MAIL)

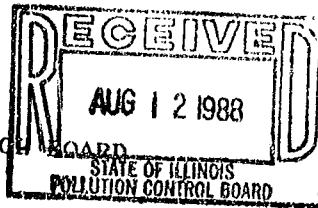
and mailing it from Springfield, Illinois on August 11,  
19 88, with sufficient postage affixed as indicated above.

Michael A. Stick

SUBSCRIBED AND SWORN TO BEFORE ME  
this 11th day of August, 19 88.

Barbara K. McGee  
Notary Public





BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Modern Drop Forge Company,  
Petitioner,

v.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,  
Respondent.

PCB 88-125

AGENCY RECOMMENDATION

The Illinois Environmental Protection Agency (Agency) recommends that because of an arbitrary and unreasonable hardship, Modern Drop Forge Company (Petitioner) be granted the requested provisional variance subject to the provisions set forth in paragraph 9 below. The Agency is considering this request for a provisional variance as an Emergency Application under PROCEDURES AND CRITERIA FOR REVIEWING APPLICATIONS FOR PROVISIONAL VARIANCES, SUBPART B, Section 180.204 as it is based solely on extreme weather conditions. ACTION MUST BE TAKEN WITHIN 2 DAYS OF NOTIFICATION OF THIS RECOMMENDATION FROM THE AGENCY.

1. On August 8, 1988, the Agency received a request for a provisional variance from Petitioner. Petitioner is requesting a provisional variance to allow it to exceed site-specific operational noise levels by operating its forging hammers throughout the night, six nights per week, during the current period of extremely hot weather. Petitioner's current Site-Specific Operational Levels are as follows:

"2) Modern Drop Forge Company located at 129th Street and Western Avenue in Blue Island, Illinois shall:

- A) Operate only twenty-one forging hammers at any one time; and

B) Operate its forging hammers only during the hours of 6:00 a.m. through midnight. Mondays through Fridays, and 6:30 a.m. until 7:30 p.m. on Saturdays."

2. Petitioner is a corporation duly organized and existing under the laws of the State of Illinois, is authorized to do business in Illinois and maintains an office and manufacturing complex in Blue Island, County of Cook, Illinois. Petitioner uses 21 forge hammers to produce different types of forgings ranging in size up to 40 pounds. The sound produced by the forge hammers is impulsive in nature. According to the Petitioner, there are approximately 1,600 residences potentially exposed to noise in the immediate vicinity of the Company's operations.

3. The Chicago area has experienced more days with temperatures exceeding 100 degrees °F this year than during any complete year since official weather records have been kept. According to the Petitioner, some employees have fainted from the high temperatures. Others have walked off the job and refused to work during periods of extreme heat. The Petitioner has received requests from the employees' union to reschedule operations for cooler nighttime hours.

4. The Petitioner has stated they are faced with the prospect of either, operating during nighttime hours during periods of extreme heat or, completely shutting down operations during those times. Petitioner has indicated their contract with the employees' union requires work schedules be established on a Wednesday for the following week. Petitioner requests to use

weather forecasts from the National Weather Service to schedule work shifts in advance.

5. Petitioner has indicated, and the Agency agrees, that refusal to grant the requested variance would place an arbitrary and unreasonable hardship upon the Petitioner since the current heat wave was totally unexpected. Additionally, in the Petitioner's request for a Site Specific Operational Level before the Pollution Control Board in November of 1982, the Petitioner stated that current technology did not offer any economical, reasonable or technically feasible means to reduce their noise emissions. The Agency is not aware of any technological developments since 1982 to change the validity of the above statement.

6. The Agency anticipates that the environmental impact of this variance will be minimal due to the short duration of the variance and the anticipated intermittent implementation of scheduling operations between 6:30 p.m. and 12:30 p.m. due to temperatures exceeding 90°F. Additionally, the Petitioner has listed several considerations that will largely mitigate the adverse impact on area residents resulting from the provisional variance. First, the Petitioner currently operates until midnight, six nights a week. Thus, by definition, the Petitioner currently operates its forging hammers during nighttime hours.

Second, the Petitioner proposes that it be authorized to operate throughout the night for a 45 day period when local weather forecasts call for daytime temperatures in excess of 90°F. Thus, nighttime operations will be limited to those times when

forecasted daytime temperatures are excessive. Third, in 1981 when the company filed its Petition for a Site Specific Operational Level authorizing nighttime operations, a petition was circulated throughout the community surveying the nearby residents and found only one person who at that time objected to the sound emanating from the Petitioner's nighttime operations. In addition, the Petitioner will monitor local public reaction to the provisional variance and report back to the Agency concerning public reaction within fifteen days of the effective date.

7. The Agency believes the Petitioner has chosen a reasonable alternative for dealing with the problem. Based upon subsequent phone conversations with the Petitioner's attorney, the Petitioner has agreed to work less hours per week than they were allowed under the existing Site Specific Operational Level. Since less hours will be worked, the noise impact on the nearby residents will be reduced.

8. There are no federal regulations which would preclude the granting of this variance.

9. The Agency recommends that the Modern Drop Forge Company be granted a provisional variance from its Site Specific Operational Level limits subject to the following conditions:

a. This variance shall commence on the date of the Board Order and continue for 45 days.

b. During the variance period, the Petitioner is authorized to operate up to twenty-one forging hammers on: Mondays between the hours of 4:00 a.m. and 12:30 p.m.

and also between the hours of 6:30 p.m. and midnight.

Tuesdays through Fridays between the hours of midnight and 12:30 p.m. and also between the hours of 6:30 p.m. and midnight.

Saturdays between the hours of midnight and 12:30 p.m.

Sundays-no forging hammers are to be operated.

c. The Petitioner shall only schedule nighttime operations for any week following the five day National Weather Service forecast on Wednesdays predicting temperatures in excess of 90°F, for any Friday, Saturday, or Sunday, during this five day forecast, for the city of Chicago.

d. The Petitioner shall, after issuance of this provisional variance, notify the surrounding residential community (consisting of approximately 1600 residents) via First Class U.S. Mail of the reason for and temporary change in hours for nighttime operations. In addition, the Petitioner shall include in the letter its phone number and explain that every fifteen days commencing with the date of this provisional variance, it must report any effects (complaints) concerning these temporary nighttime operations to the Illinois Environmental Protection Agency.

e. The Petitioner shall make a written record of all phone calls received regarding these temporary nighttime operations noting the callers: name, address, phone number, and comments. Any anonymous calls would only require a

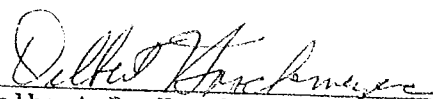
record of the comments made. At the conclusion of each fifteen day period this provisional variance is in effect, the petitioner shall send this written record to the following address:

Illinois Environmental Protection Agency  
Division of Land Pollution Control  
Noise Technical Advisor  
2200 Churchill Road  
P.O. Box 19276  
Springfield, Illinois 62794-9276

f. Within 10 days of the date of the Board's Order, Petitioner shall execute a Certificate of Acceptance and Agreement which shall be sent to the address indicated above.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By:

  
Delbert D. Haschemeyer  
Deputy Director

Date: Aug 11, 1988

ZAK07.DOC



BUTLER, RUBIN, NEWCOMER, SALTARELLI & BOYD  
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

SUITE 1505  
THREE FIRST NATIONAL PLAZA  
CHICAGO, ILLINOIS 60602  
(312) 444-9660

TELECOPIER (312) 444-9287

August 5, 1988

VIA FAX

Delbert Haschemeyer  
Deputy Director  
Illinois Environmental Protection Agency  
2200 Churchill Road  
Springfield, Illinois 62706

Re: Modern Drop Forge Company's Formal Request Pursuant to Sections 35(b), 36(b) and 37(b) of the Illinois Environmental Protection Act for a Provisional Variance from Section 901.105(f)(2) of Title 35, Subtitle H, Chapter I of the Illinois Pollution Control Board Rules and Regulations

Dear Mr. Haschemeyer:

On behalf of my client, Modern Drop Forge Company ("the Company"), and pursuant to Sections 35(b), 36(b) and 37(b) of the Illinois Environmental Protection Act, I hereby formally request a 45-day provisional variance from the Company's Site Specific Operational Level, Section 901.105(f)(2) of Title 35, Subtitle H, Chapter I of the Illinois Pollution Control Board Rules and Regulations. The requested Provisional Variance would allow the Company commencing Monday, August 8, 1988 to conduct its forging

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operations during days of excessive heat between the hours of 6:30 p.m. and 12:30 p.m., from Sunday afternoon through 12:30 p.m. Saturday afternoon.

The Company's Operations and Surrounding Property

Modern Drop Forge Company is a corporation organized and existing under the laws of the State of Illinois, is authorized to do business in Illinois and maintains an office and manufacturing complex in Blue Island, Cook County, Illinois. The Company has been in existence since 1918. Its manufacturing complex, which covers four square blocks, is located north, northwest of the intersection of 139th Street and Western Avenue in Blue Island, Illinois. The Company employs more than 300 people and is the second largest employer in Blue Island. These employees are for the most part local residents, many of whom reside in the immediate vicinity.

The property surrounding the Company's complex is zoned for general industry and is used principally for industrial purposes. There are also a few nearby residential and commercial facilities. When the Company began its operations in 1918, the property surrounding its facility was vacant except for the nearby Libby, McNeill & Libby cannery. Thus, the surrounding manufacturing, commercial and residential facilities have been constructed since the Company commenced its forging operations.

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The Company's manufacturing complex produces different types of forgings ranging in size up to 40 pounds. The forgings include, among other items, connecting rods for engines, pinions and gears for the railroad industry, shifting levers for transmissions, track links for tanks, and door closure arms and pistons. The Company's forging facility currently contains 21 forging-hammers. The forging hammers are air drop, air driven and board drop and range in size from 2,000 lbs. to 8,000 lbs.

The Company's Site Specific Operational Level

On November 3, 1982, the Company filed a Petition with the Illinois Pollution Control Board requesting a Site Specific Operational Level pursuant to Chapter 8, Rule 206(d) of the Board's Rules and Regulations. (A copy of the Petition is attached hereto). In particular, the Company requested that it be allowed to operate its 21 hammers six days per week, from 6:00 a.m. until midnight Monday through Friday and from 6:30 a.m. until 7:30 p.m. on Saturday. The Board subsequently granted the Company's Petition and enacted a Site Specific Operational Level which is found at Section 901.105(f)(2) of Title 35, Subtitle H, Chapter I of the Board's Rules and Regulations. The Site Specific Operational Level states:

Modern Drop Forge Company located at  
139th Street and Western Avenue in Blue  
Island, Illinois shall:

- (A) Operate only twenty-one forging hammers at any one time; and

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- (B) Operate its forging hammers only during the hours of 6:00 a.m. through midnight, Mondays through Fridays, and 6:30 a.m. until 7:30 p.m. on Saturdays.

It is from this Site Specific Operational Level that the Company now requests a 45-day provisional variance authorizing a limited expansion of nighttime operations.

The Company's Need for a Provisional Variance

The summer of 1988 has been one of the hottest in recent history. The Chicagoland area has experienced more days with temperatures exceeding 100° thus far during the summer season than during any other full year on record. The first week of August has been particularly hot with temperatures on several days approaching or exceeding 100°. As described in the Company's 1982 Petition for a Site Specific Operational Level (attached hereto) its forging process involves the use of indoor furnaces which are used to heat steel to a temperature of nearly 2,200 degrees Fahrenheit.

During the summer of 1988 and particularly the first week of August, the Company has experienced incidents when employees have either fainted or passed out on the job from the extreme heat which is associated with the forgery operations and compounded by the unseasonably hot weather. Additionally, substantial numbers of other employees have walked off the job and refused to work in the heat. The Company has received requests from the employee's union that operations on particularly hot days be conducted

during cooler nighttime hours. Thus, the Company is faced with the prospect of either operating during nighttime hours during times of extreme heat or completely shutting down its operations during those times.

The Relief Requested by the Company

Section 35(b) of the Environmental Protection Act provides for the issuance of a provisional variance for up to a 45-day period by the Pollution Control Board upon notification by the Agency that compliance on a short-term basis with a Board regulation would impose an arbitrary or unreasonable hardship on the party requesting the provisional variance. Section 37(b) of the Act provides for a prompt investigation and consideration of the merits of a request to the Agency for such a provisional variance. Section 37(b) of the Act does not provide for a public comment period from the community, but does require the Board to provide notification to the affected public by press release to area newspapers of general circulation after issuance of a provisional variance.

The Company now requests that the Agency notify the Pollution Control Board that compliance on a short-term basis with the Company's Site Specific Operational Level would impose an arbitrary and unreasonable hardship on the Company. It is further requested that the Agency recommend that the Board issue the following provisional variance to the Company for a 45-day period:

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Modern Drop Forge Company is authorized commencing Monday, August 8, 1988 to operate up to twenty-one forging hammers between the hours of 6:30 p.m. and 12:30 p.m., from Sunday afternoon through 12:30 p.m. Saturday afternoon. This provisional variance is subject to the following conditions:

1. The Company shall only schedule nighttime operations during those weeks in which the local weather forecast calls for temperatures during the daytime hours in excess of 90°, and
2. The Company shall after issuance of this provisional variance conduct an investigation of the immediately surrounding residential community concerning the effects of the Company's nighttime operations and report its findings to the Illinois Environmental Protection Agency within two weeks of the effective date of this provisional variance.

The Anticipated Impact of the Provisional Variance  
on the Company's Business and the Surrounding Community

The Company's request for a provisional variance will have a positive impact on the Company's business operation. The Company is currently operating with a backlog of orders and is conducting its forging operation continuously during the time period authorized by its Site Specific Operation level. The Company and its employee union favor continued operation of two full shifts a day. If this request for a provisional variance is denied, the Company will be required to shut down its operations during those days when daytime temperatures in the Chicagoland area exceed 90°. On the other hand, granting this request will provide a

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Modern Drop Forge Company is authorized commencing Monday, August 8, 1988 to operate up to twenty-one forging hammers between the hours of 6:30 p.m. and 12:30 p.m., from Sunday afternoon through 12:30 p.m. Saturday afternoon. This provisional variance is subject to the following conditions:

1. The Company shall only schedule nighttime operations during those weeks in which the local weather forecast calls for temperatures during the daytime hours in excess of 90°, and
2. The Company shall after issuance of this provisional variance conduct an investigation of the immediately surrounding residential community concerning the effects of the Company's nighttime operations and report its findings to the Illinois Environmental Protection Agency within two weeks of the effective date of this provisional variance.

The Anticipated Impact of the Provisional Variance  
on the Company's Business and the Surrounding Community

The Company's request for a provisional variance will have a positive impact on the Company's business operation. The Company is currently operating with a backlog of orders and is conducting its forging operation continuously during the time period authorized by its Site Specific Operation level. The Company and its employee union favor continued operation of two full shifts a day. If this request for a provisional variance is denied, the Company will be required to shut down its operations during those days when daytime temperatures in the Chicagoland area exceed 90°. On the other hand, granting this request will provide a

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benefit to the Company by allowing it to continue its normal business operations. The proposed provisional variance will also have a positive impact on the surrounding community, because most of the Company's more than 300 employees are nearby residents. If the provisional variance is granted, the Company will be able to maintain normal operations and its employees will be able to continue to work on days when they would otherwise be laid-off because of the heat.

There are approximately 1,600 residences potentially exposed to noise in the immediate vicinity of the Company's operations. Most of these residences, including many of the Company's employees, are located in two trailer parks located to the northeast and southeast the Company's facility. Two additional trailer parks are located to the far east of the Company. These trailer parks are identified on the map which is attached as Exhibit A to the Company's 1982 Petition for a Site Specific Operational Level which is attached hereto. The only other non-industrial and non-commercial establishment nearby the Company's operations is a girl's day school located due East of the facility. The school has no nighttime occupants and does not commence its school term until August 29, 1988.

Several considerations mitigate against any potential adverse impact on area residents that might result from the proposed provisional variance. First, the Company currently operates until 12:00 midnight, six nights a week. Thus, by



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definition, the Company currently operates its forging hammers during nighttime hours. Second, the Company proposes that it be authorized to operate during nighttime hours for a 45-day period only and only at those times during the 45-day period when local weather forecasts call for daytime temperatures in excess of 90°. Thus, nighttime operations will be limited to those times when forecasted daytime temperatures are excessive. Third, in 1981 when the Company filed its Petition for a Site Specific Operational Level authorizing nighttime operations, a petition was circulated throughout the community surveying the nearby residents and found only one person who at that time objected to the sound emanating from the Company's nighttime operations. (See attached Petition, p. 12). Fourth, the Company has contacted the City of Blue Island Community Relations Director, Pam Frasor, who has indicated she has no objection to the Company's proposed expanded nighttime operations. The Company is informed that Ms. Frasor also contacted a local alderman who expressed no objection to the proposal. In addition, the Company will monitor local public reaction to the provisional variance and report back to the Agency concerning public reaction within two weeks of its effective date. Obviously, because of the urgency of the situation, such an investigation prior to the issuance of the provisional variance is not feasible. Thus, the Company has proposed the most appropriate alternative. Moreover, this method of monitoring the impact of the provisional variance

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on the surrounding community is consistent with Section 37(b) of the Environmental Protection Act which does not provide for a public comment period and which provides for notification to the public after issuance of a provisional variance. Finally, issuance of a provisional variance in the context of the Board's noise regulations is highly appropriate. Unlike provisional variances from water or air pollution regulations, a provision variance from noise regulations cannot result in continuing or permanent harm to the environment. This is true, because noise levels unlike organic or inorganic contaminants in the water or air do not continue after the contributing activity is halted.

Verification of Factual Matters

The undersigned, as the attorney for Modern Drop Forge Company, hereby verifies that the factual statements contained in this request are true and correct to the best of his knowledge and belief.

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CONCLUSION

Modern Drop Forge Company respectfully requests that the Illinois Environmental Protection Agency a) notify the Illinois Pollution Control Board that compliance by the Company on a short time basis with its Site Specific Operational Level would impose an arbitrary and unreasonable hardship and b) further recommend to the Board that it issue a 45-day provisional variance consistent with the Company's current request.

Respectfully submitted,

*Michael A. Stick*  
\_\_\_\_\_  
Michael A. Stick  
One of the Attorneys for  
Modern Drop Forge Company

cc: Gregory Zak via Federal Express