ILLINOIS POLLUTION CONTROL BOARD September 20, 1973

N.J. WAGNER AND GAILLARD WAGNER,
PARTNERS d/b/a WAGNER STONE COMPANY

v.

PCB 73-257

ENVIRONMENTAL PROTECTION AGENCY

JAMES J. HERR, ESQ., appeared for Petitioner DALE TURNER, ESQ., Assistant Attorney General for Respondent

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

A petition for variance from Rule 3-3.111 of the Rules and Regulations governing the Control of Air Pollution (Air Rules) and Rule 203 of Chapter 2, Part II of the Pollution Control Boards' Regulations, was filed June 1, 1973. On July 23, 1973, the Environmental Protection Agency (Agency) filed its recommendations approving the granting of the variance. Public hearing was held on August 22, 1973.

Petitioner owns a limestone quarry located four miles north of Chenowa, Livingston County, Illinois. Petitioner's process equipment is enclosed inside of a metal building in order to control dust and to recover dust as a product. After Agency denial of an operating permit on February 23, 1973, Petitioner's proposed to install a liquid spray dust supression system to control dust emissions. A construction permit was issued to Petitioner on July 5, 1973 to install the system.

Although Petitioner reiterated the position that the enclosure of the processing equipment resulted in compliance with both 3-3.111 and Rule 203, Petitioner agreed at the hearing to the recommendations presented by the Agency (R. 73-257, pages 19, 27). Petitioner alleges that arbitrary and undue hardship would result to the Wagner Stone Company if this variance were not granted in that they would be subject to prosecution and possible fines or be forced to close down. Either case would result in a substantial economic loss. Petitioner, in reliance upon its consulting engineer, believed that it was in compliance because of its past action of enclosing the process equipment. After denial of an operating permit, they proceeded toward a control system and have agreed to install and have it operating by March 1, 1974 (R. 73-257, pages 19, 27). The Board finds that the Petitioner's operation

will not significantly affect the air quality in the surrounding area to an extent that would preclude a six month variance to allow installation of the spray system.

ORDER

The Pollution Control Board hereby grants the Petitioner a variance until March 1, 1974 subject to the following conditions:

1. Petitioner shall submit to the Agency, in writing, progress reports indicating progress made toward completion of said project. Said progress reports shall be submitted monthly to:

Illinois Environmental Protection Agency Division of Air Pollution Control Board Variance Section 2200 Churchill Road Springfield, Illinois 62706

- 2. Petitioner shall chemically treat its roadways to prevent fugitive dust emissions whenever such action is warranted.
- 3. Within thirty-five (35) days of the date of this Order by the Board, Petitioner shall submit a performance bond, in a form approved by the Agency and in an amount of \$5,000.00. Said bond shall be submitted to Illinois Environmental Protection Agency, Fiscal Services, 2200 Churchill Road, Springfield, Illinois 62706, and shall exist to ensure completion of the construction project.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 2011 day of September, 1973 by a vote of

Christan L. Moffett Cherk
Illinois Pollution Control Board