

ILLINOIS POLLUTION CONTROL BOARD
January 24, 1991

KOPPERS INDUSTRIES, INC.,)
)
Petitioner,)
)
v.) PCB 91-14
) (Provisional Variance)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

CONCURRING OPINION (by B. Forcade and J.Theodore Meyer):

We agree with the action taken today in granting this provisional variance, but would have added language to the Order explaining the function we see the Board performing in these decisions. Since that language is not present in the Order, we concur.

The Environmental Protection Act describes the provisional variance process at Section 35(b):

The Board shall grant provisional variances, only upon notification from the Agency that compliance on a short term basis with any rule or regulation, requirement or order of the Board, or with any permit requirement would impose an arbitrary or unreasonable hardship. ...
(Emphasis Added).

Pursuant to this statutory language, the General Assembly has not empowered this Board to deliberate the environmental consequences of the provisional variance or review the merits of the Agency decision.

Bill S. Forcade
Board Member

J. Theodore Meyer
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was filed on the _____ day of _____, 1991.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board