

ILLINOIS POLLUTION CONTROL BOARD  
May 7, 1992

MONTGOMERY COUNTY HIGHWAY )  
DEPT., )  
 )  
Petitioner, )  
 )  
v. ) PCB 92-64  
 ) (Provisional Variance)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by J.C. Marlin):

This matter comes before the Board on receipt of an Agency Recommendation dated May 5, 1992. The recommendation refers to a request from Petitioner, Montgomery County Highway Department for a 21-day provisional variance for its Montgomery County facility from the cutback asphalt use restrictions, as set forth in 35 Ill. Adm. Code 215.563, for the period from May 1, 1992 to May 22, 1992.

Upon receipt of the request, the Agency issued its recommendation, finding that due to unforeseen, temporary and uncontrollable circumstances, failure to grant the requested 21-day provisional variance would impose an arbitrary or unreasonable hardship on Petitioner.

The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. See Ill. Rev. Stat. 1991, ch. 111½, pars. 1035(b) & (c). In provisional variances it is the responsibility of the Agency to make the technical determinations and finding of arbitrary or unreasonable hardship. The Board's responsibility is to adopt a formal Order, to assure the formal maintenance of the record, to assure the enforceability of the variance, and to provide notification of the action by a press release.

Having received the Agency recommendation finding that a denial of the requested relief would impose an arbitrary and unreasonable hardship, the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 215.563 from May 1, 1992 to May 22, 1992, subject to the following conditions:

1. The term of this provisional variance shall commence on May 1, 1992 and expire on May 22, 1992;

- 2. During the term of this provisional variance, the Petitioner's shall use cutback asphalt only;
- 3. The Petitioner shall notify Agency in writing when the use of cutback asphalt has been completed under the terms of this provisional variance, addressed as follows:

Regional Manager  
 Illinois Environmental Protection Agency  
 Division of Air Pollution Control  
 5415 North University  
 Peoria, Illinois 61614

CERTIFICATION

I (We), \_\_\_\_\_, hereby accept and agree to be bound by all terms and conditions of the Order of the Pollution Control Board in PCB 92-64, May 7, 1992.

\_\_\_\_\_  
 Petitioner


\_\_\_\_\_  
 Authorized Agent

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Date

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 7<sup>th</sup> day of May, 1992, by a vote of 7-0.

  
 \_\_\_\_\_  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board