

ILLINOIS POLLUTION CONTROL BOARD
February 28, 1991

MAXWELL COMMUNICATIONS CORP.,)
)
)
 Petitioner,)
)
 v.) PCB 91-37
) (Provisional Variance)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

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

This matter comes before the Board upon receipt of an Agency Recommendation dated February 26, 1991. The recommendation refers to a request from Petitioner, Maxwell Communications Corp. for a 30 day provisional variance from the 90-day on-site limitations for hazardous wastes set forth in 35 Ill. Adm. Code 722.134(b).

Upon receipt of the request the Agency issued its recommendation, finding that the hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary and uncontrollable circumstances and failure to grant the requested 30-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. 1989, ch. 111 $\frac{1}{2}$, 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 request relief would impose an arbitrary and unreasonable hardship the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 722.134(b) from February 12, 1991 to March 14, 1991.

IT IS SO ORDERED.

B. Forcade and J. Theodore Meyer concurred.

Board, hereby certify that the above Order was adopted on
the 28th day of February, 1991, by a
vote of 6-0.

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