

ILLINOIS POLLUTION CONTROL BOARD
March 24, 1988

C.S. NORCROSS, INC.,)
)
 Petitioner,)
)
 v.) PCB 87-206
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

INTERIM ORDER OF THE BOARD (by J.D. Dumelle):

This matter arises on a petition for variance filed December 22, 1987 and an amended petition filed January 15, 1988 requesting a hearing in this matter. Section 37 of the Environmental Protection Act (Act) states:

- a. Any person seeking a variance pursuant to subsection (a) of Section 35 shall do so by filing a petition for variance with the Board and the Agency. The Agency shall promptly give written notice of such petition to any person in the county in which the installation or property for which variance is sought is located who has in writing requested notice of variance petitions, the State's attorney of such county, the Chairman of the County Board of such county, and to each member of the General Assembly from the legislative district in which that installation or property is located, and shall publish notice of such petition in a newspaper of general circulation in such county. The notices required by this Section shall include the street address, and if there is no street address then the legal description or the location with reference to any well known landmark, highway, road, thoroughfare or intersection.

The Agency shall promptly investigate such petition and consider the views of persons who might be adversely affected

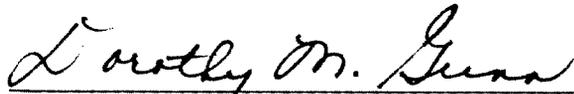
by the grant of a variance. The Agency shall make a recommendation to the Board as to the disposition of the petition. If the Board, in its discretion, concludes that a hearing would be advisable, or if the Agency or any other person files a written objection to the grant of such variance within 21 days, then a hearing shall be held, under the rules prescribed in Sections 32 and 33(a) of this Act, and the burden of proof shall be on the petitioner.

On March 14, 1988 the Illinois Environmental Protection Agency (Agency) filed an "Agency Statement" which states that because its Noise Division has been discontinued, the Agency has been unable to conduct a formal investigation and therefore to make a formal recommendation on the variance petition. However, the Agency states it has published newspaper notice to inform local citizens and to solicit comment. The Agency received one response inquiring as to the hearing date and "to insure that the company was held to the representations in its petition." The Agency states "[b]ased on the apparent support of citizens to the petition and the representations made by the Company in its petition, the Agency has no objection to the grant of this variance."

The Board construes the Agency filing, although entitled "Agency Statement", as the Agency's recommendation as to the disposition of the petition. In addition, the Board notes that, pursuant to Section 35 of the Act, the Board may grant a variance only upon presentation of adequate proof that compliance with any rule or regulation would impose an arbitrary or unreasonable hardship.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 24th day of March, 1988 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board