

ILLINOIS POLLUTION CONTROL BOARD  
December 16, 1994

THE ALUMAX MILL	)	
PRODUCTS INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 94-383
	)	(Provisional Variance)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by M. McFawn):

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), Alumax Mill Products, Inc. (Alumax) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Alumax to discharge waste water into an existing sanitary lagoon. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Thursday, December 15, 1994. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing.

Pursuant to Section 35(b) of the Act (415 ILCS 5/35(b)), the Agency, by and through its Director, Mary A. Gade, seeks a provisional variance for Alumax in order to allow Alumax to discharge waste water into an existing sanitary lagoon while Alumax prepares an application and obtains an operating permit for the facility.

Specifically, the Agency recommends that we grant Alumax a forty-five (45)-day provisional variance for its facility located in Morris, Grundy County, Illinois from the requirement to operate with a permit, as set forth in 35 Ill. Adm. Code 309.204(a), for the period beginning December 15, 1994 and continuing for not for longer than 45 days.

The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency anticipates that the requested provisional variance would have minimal environmental impact on the receiving stream. The Agency is unaware of any public water supplies that the requested provisional variance would adversely impact. The Agency maintains that a grant of a provisional variance would violate no federal laws. The Agency finds that a denial of the requested provisional variance would create an arbitrary or unreasonable hardship on the petitioner.

Provisional variances are by their very nature temporary. The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. (See 415 ILCS 5/35 (b) & 36(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 or unreasonable hardship, the Board hereby grants the petitioner a provisional variance from 35 Ill. Adm. Code 309.204(a), on the following conditions:

1. The term of this provisional variance shall commence on December 15, 1994 and continuing for a period not longer than 45 days;
2. The petitioner shall immediately apply for the necessary operating permit from the Agency.

The petitioner shall execute a copy of a Certificate of Acceptance of this provisional variance and forward that copy to the Agency addressed as indicated;

Illinois Environmental Protection Agency  
Division of Water Pollution Control  
Compliance Assurance Section  
2200 Churchill Road  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Attention: Mark T. Books

The petitioner shall forward that copy within ten (10) days of the date of this order of the Board, and the Certificate of Acceptance shall take the following form:

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 94-383, December 16, 1994.

\_\_\_\_\_  
Petitioner

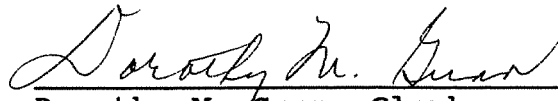
\_\_\_\_\_  
Authorized Agent

\_\_\_\_\_  
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  
16<sup>th</sup> day of December, 1994, by a vote of  
4-0.

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