

ILLINOIS POLLUTION CONTROL BOARD
February 23, 1989

CITY OF ELMHURST,)
)
 Complainant,)
)
 v.) PCB 89-4
)
 ELMHURST-CHICAGO STONE CO.,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Anderson):

On January 31, 1989, Complainant, City of Elmhurst (Elmhurst), filed a motion requesting that the Respondent, Elmhurst-Chicago Stone Company, be ordered to "temporarily cease night-time operation of the exhaust fan and gravel conveyor during the pendency of this enforcement action ..." (Motion, p. 3). The motion also requested the Hearing Officer to expedite hearing.

Regarding the request for temporary relief, Elmhurst asserted that there is "no other adequate remedy at law or equity" for the alleged continuing violation of the night-time noise limits. Elmhurst attached the affidavit of its noise consultant, his resume, noise level measurements and a map of the noise impacted area.

The motion for temporary relief is denied, as the Board has determined that it has no authority to grant such interim relief. The Board's enforcement powers are derived from the Illinois Environmental Protection Act (Act). Under the Act, the Board has power to issue a "cease and desist" order, but only as a final order entered after hearing on the merits of an enforcement complaint (See Village of Kildeer v. Village of Lake Zurich, et al., PCB 88-173, February 23, 1989, copy enclosed).

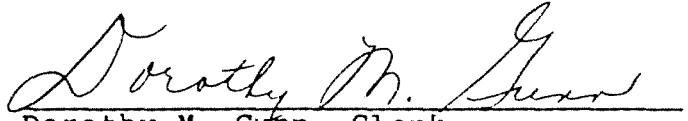
Regarding the expedited hearing, the Board notes that the hearing officer has scheduled hearing for March 23, 1989.

Finally, the Board notes that the motion refers to the "Environmental Protection Act rules and regulations", and the affidavit refers to "Illinois Environmental Protection rules and regulations. (Motion, p. 2, Affidavit, p. 1).

Since the Board is uncertain as to what regulations Elmhurst may be referring to, a copy of the applicable Pollution Control Board regulations, with the accompanying Opinion, is enclosed.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 23rd day of February, 1989, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board