

ILLINOIS POLLUTION CONTROL BOARD
February 3, 1994

R. LAVIN & SONS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 90-31
)	(Variance)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by R.C. Flemal):

On March 5, 1990 R. Lavin & Sons, Inc. (Lavin) filed this petition for variance from certain of the Board's water pollution regulations. The petition was accepted for hearing on March 8, 1990.

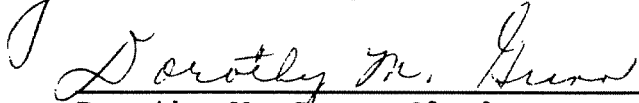
On January 25, 1994 the parties submitted status reports pursuant to Board order. The Illinois Environmental Protection Agency (Agency) discusses the history of this proceeding, submits recent discharge monitoring reports received from R. Lavin & Sons, Inc. (Lavin), and states that nothing has changed since the last status report. In a previous report, the parties noted that they had extended the period for negotiations under the dispute resolution clause in a consent decree entered into by these parties in a related enforcement action, People v. R. Lavin & Sons (1990), No. 90-CH-668. Lavin states that it is continuing to await the final decision of the the North Shore Sanitary District (NSSD) and the City of North Chicago (North Chicago) regarding Lavin's request to reroute some of Lavin's stormwater discharges. Lavin requests that the Board set the matter for another status report by the end of April 1994.

The Board notes that this matter has a statutory decision deadline of June 1, 1994. Therefore, the Board declines to grant another status date for April 1994. The Board requires 120 days in which to schedule hearing, give public notice, establish a briefing schedule, receive and review the transcript and fully deliberate on the matter. Under such time constraints, the Board will be required to set this matter for hearing without a waiver of the statutory deadline. The Board further notes that this matter is nearly four years old. The petitioner stated over one year ago that a decision from North Chicago and the NSSD was expected shortly. No decision has been reported. It is necessary for the parties to bring this four-year-old matter to resolution sometime in the near future either through pursuit of hearing and decision on the merits or by settlement.

The Board directs the parties to file a status report with the Board and hearing officer on or before March 11, 1994 detailing a projected timeline for completion or settlement. In the meantime, absent a waiver of the decision deadline, the hearing officer will contact the parties to schedule a hearing.

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 3rd day of February, 1994, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board