

ILLINOIS POLLUTION CONTROL BOARD  
July 7, 1995

CITY OF MT. VERNON, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 96-1  
 ) (Provisional Variance-Water)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by C. A. Manning):

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), the City of Mt. Vernon has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow the City of Mt. Vernon to continue operating in violation of certain effluent limitations contained in its National Pollutant Discharge Elimination System (NPDES) permit, IL0027341, during a period of repairs to its wastewater treatment facility. Such request for a provisional variance and the Notification of Recommendation were filed with the Board by the Agency on Wednesday, July 5, 1995. 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 Environmental Protection Act (Act) (415 ILCS 5/35(b)), the Agency, by and through its Director, Mary A. Gade, seeks a provisional variance for the City of Mt. Vernon in order to allow it to continue operating during a period of repairs to the inter-channel gates and the cleaning of all channels at the wastewater treatment facility.

Specifically, the Agency recommends that we grant the City of Mt. Vernon a (forty-five) 45 day provisional variance for its facility located in Jefferson County, from the requirements pertaining to carbonaceous biochemical oxygen demand (CBOD<sub>5</sub>), total suspended solids (TSS), ammonia nitrogen, and phosphorus as set forth in 35 Ill. Adm. Code 304.120(c), 304.123(b), 302.212 and 304.141(a), for the period beginning July 10, 1995 and continuing for a period not longer than forty-five (45)-days.

The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency agrees that the repairs are necessary. 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 City of Mt. Vernon a provisional variance from 35 Ill. Adm. Code 304.120(c), 304.123(b), 302.212 and 304.141(a) for discharge from its Outfall 001, on the following conditions:

1. The provisional variance shall commence on July 10, 1995 and continue for a period not longer than forty-five (45)-days;
2. During this provisional variance, the following effluent limitations shall be in effect:

Parameter	Daily Maximum	Monthly Average
CBOD <sub>5</sub>	40 mg/l	20 mg/l
TSS	48 mg/l	24 mg/l
Ammonia Nitrogen	N/A	15 mg/l
Phosphorus	8.0 mg/l	4.0 mg/l

These parameters shall be monitored at the same sample frequency and sample type as specified in the NPDES Permit;

3. During this provisional variance, the City of Mt. Vernon shall operate its wastewater treatment plant so as to produce the best effluent practicable;
4. The petitioner shall notify Byron Marks of the Agency's Marion Regional office by telephone, at 618/993-7200, when repairs are complete and all treatment units are returned to service, and the petitioner shall confirm this notice in writing within five (5) days, addressed as follows:

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

Attention: Barb Conner

The City of Mt. Vernon shall execute a copy of a Certificate of Acceptance of this provisional variance and forward that copy to the Agency addressed as is the written notice required in the above condition; 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 96-1, July 7, 1995.

\_\_\_\_\_  
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 7<sup>th</sup> day of July, 1995, by a vote of 7-0.

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