

ILLINOIS POLLUTION CONTROL BOARD  
April 20, 1995

NORBERT JANISCH and SIBI	)	
KADALIMATTION,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 95-131
	)	(Provisional Variance-Air)
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)), Norbert Janisch and Sibi Kadlimatton have requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Norbert Janisch and Sibi Kadlimatton's gasoline dispensing operation (service station) to continue operating even though they did not install operational vapor recovery equipment by March 31, 1995. This provisional variance is being requested because the property is being sold and petitioners were unable to complete the sale and install the equipment by March 31, 1995. This request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Tuesday, April 18, 1995. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing.

Specifically, the Agency recommends that we grant Norbert Janisch and Sibi Kadlimatton a forty-five (45)-day provisional variance for the facility located at 219 S. Neltnor, West Chicago, DuPage County, Illinois in the Chicago metropolitan statistical area from the Stage II vapor recovery requirements, as set forth in 35 Ill. Adm. Code 218.586, for the period beginning April 1, 1995 and continuing for forty-five (45)-days or until the required vapor recovery equipment is installed, whichever comes first.

This recommendation is essentially that the Board extend a previously-granted variance that expired March 31, 1995. The docket number of the variance was PCB 94-263, granted on January 11, 1995.

Upon receipt of the request, the Agency issued its recommendation, notifying the Board that the failure to grant the requested forty-five (45)-day provisional variance would impose 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.

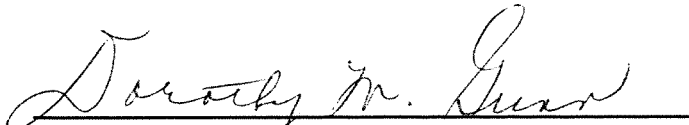
Having received the Agency recommendation notifying the Board that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants the petitioner a provisional variance from 35 Ill. Adm. Code 218.586, subject to the following conditions:

1. The term of this provisional variance shall commence on April 1, 1995 and continue for forty-five (45)-days or until the required vapor recovery equipment is installed, whichever comes first.
2. The petitioner shall notify the Agency upon installation of the Stage II gasoline vapor recovery equipment and if the gasoline dispensing operation ceases dispensing gasoline, by sending notification addressed as follows:

Mr. Terry Sweitzer, P.E.  
 Manager, Air Monitoring Section  
 Illinois Environmental Protection Agency  
 Division of Air Pollution Control  
 P.O. Box 19276  
 Springfield, Illinois 62794-9276

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 20<sup>th</sup> day of April, 1995, by a vote of 7-0.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board