

ILLINOIS POLLUTION CONTROL BOARD
March 9, 1995

THE UNO-VEN COMPANY,)
)
Petitioner,)
)
v.) PCB 95-87
) (Provisional Variance-Water)
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)), The UNO-VEN Company (UNO-VEN) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow UNO-VEN to continue operating while raising the monthly average cyanide concentration limit from the permitted value of 0.1 mg/l to 0.2 mg/l while operational strategies are assessed to bring about proper sequential control. These actions will necessitate temporary relief from 35 Ill. Adm. Code 304.124(a) as it relates to UNO-VEN's cyanide limit in 35 Ill. Adm. Code 304.141(a). Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Thursday, March 9, 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 Illinois Environmental Protection Agency (Agency), by and through its Director, Mary A. Gade, seeks a provisional variance for UNO-VEN in order to allow it to continue operating during a period of refinery repairs. Specifically, the Agency recommends that we grant UNO-VEN a (forty-five) 45-day provisional variance for its Will County facility from the cyanide limitation requirements, as set forth in 35 Ill. Adm. Code 304.141(a), which shall begin on February 25, 1995 and shall continue for a period not longer than 45 days or when compliance with the cyanide limit can be maintained, whichever occurs first.

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, and 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, and 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 304.141(a), on the following conditions:

1. The term of this provisional variance shall commence on February 25, 1995 and it shall expire on the date when compliance with the cyanide limit can be maintained, or after forty-five (45) days have elapsed, whichever comes first;

2. During the term of this provisional variance, the petitioner's cyanide effluent shall be limited to 0.2 mg/l (monthly average concentration) from Outfall 001 during the period of the variance. UNO-VEN's existing daily maximum effluent limit of 0.2 mg/l as specified in its National Pollutant Discharge Elimination System permit, shall remain in effect;

3. The petitioner shall notify Basil Papadakis of the Agency's Maywood Regional office by telephone, at (708)338-7900, should any unusual conditions arise. The petitioner shall confirm each notice in writing within five (5) days, addressed as follows:

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

Attention: Dan Ray

4. The petitioner shall operate its refinery in such a manner as to treat cyanide in the best practical manner so as to minimize the amount of cyanide entering the receiving waters;

The petitioner 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 95-87, March 9, 1995.

Petitioner

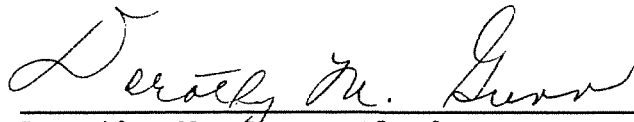
Authorized Agent

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 9th day of March, 1995, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board