

ILLINOIS POLLUTION CONTROL BOARD
February 3, 2000

ARCHER DANIELS MIDLAND)	
COMPANY and CITY OF DECATUR,)	
)	
Petitioners,)	
)	
v.)	PCB 00-131
)	(Provisional Variance - Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On February 1, 2000, the Illinois Environmental Protection Agency (Agency) filed a request for a provisional variance extension and notification of recommendation. The Agency recommends that the Board grant a 45-day extension of the provisional variance granted to Archer Daniels Midland (ADM) and the City of Decatur (City) by the Board's order of December 16, 1999, in PCB 00-101. The provisional variance in PCB 00-101 allows ADM to pump groundwater to Lake Decatur to assist the City in maintaining a public water supply during a period of abnormally low rainfall. The Agency recommended that the Board grant the provisional variance to allow pumping of groundwater from four wells located on the east side of ADM's Decatur East Complex into Fairies Creek. This groundwater would flow into Lake Decatur, which is the City's primary water source.

Under the Board's order in PCB 00-101, the provisional variance would become effective when ADM began pumping and would continue for 45 days or until the Agency issued an National Pollutant Discharge Elimination System (NPDES) permit authorizing the discharges, or until sufficient rainfall occurred such that an adequate supply of water was available and the public water supply was no longer threatened, whichever occurred first.

ADM began pumping on December 23, 1999, and the provisional variance therefore became effective on that date. ADM has pumped an average of approximately two million gallons per day into Lake Decatur. However, continued below normal precipitation has caused continued low water levels despite the efforts of ADM and the City to supplement the water flowing to Lake Decatur. To date, the Agency has not issued a National Pollutant Discharge Elimination System (NPDES) permit authorizing the discharges. In making its recommendation, the Agency states that failure to grant the requested provisional variance extension will result in an arbitrary or unreasonable hardship on ADM and the City.

The Board grants ADM and the City an extension of the provisional variance from effluent discharge requirements set forth in 35 Ill. Adm. Code 304.141 and permit requirements

set forth in 309.102. The Board is required, in a provisional variance, to adopt a formal order, assure formal maintenance of the record, assure the enforceability of the variance, and provide notification of the action by press release. Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b) (1998)), the Board must issue the provisional variance within two days of the filing.

The provisional variance is granted, subject to the following conditions:

1. The provisional variance extension shall begin on February 7, 2000, and continue for 45 days or until the Agency issues an NPDES permit authorizing the discharges, or until sufficient rain has fallen such that an adequate supply of water is available and the public water supply is no longer threatened, whichever occurs first.
2. During the provisional variance extension period, ADM shall sample each well that ADM is pumping from once per week for pH, total suspended solid, and total iron. In addition, continuous flow (MGD) shall be calculated using the capacity of each pump, and the duration of pumping at each well. ADM shall submit its sample results monthly to the Agency.
3. During the provisional variance extension period, the City shall continue implementing its comprehensive water conservation plan.
4. ADM shall notify Eliana Brown of the Agency's Champaign regional office by telephone at 217/333-8361 when the groundwater pumping stops. Written confirmation shall be sent within five days to the following address:

Illinois Environmental Protection Agency
Attention: Mark T. Books
Bureau of Water, Compliance Assurance Section
1021 North Grand Avenue E.
P.O. Box 19276
Springfield, Illinois 62794-9276

5. Within ten days of the date of this order, ADM and the City shall execute a certificate of acceptance and agreement which shall be sent to Mark T. Brooks at the address indicated above. The certification should take the following form:

CERTIFICATION

We, _____, hereby accept and agree to be bound by all terms and conditions of the order of the Pollution Control Board in PCB 00-131, dated February 3, 2000.

Petitioner

Authorized Agent

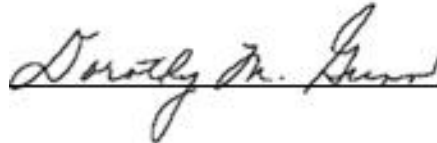
Title

Date

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

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 2000 by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board