

ILLINOIS POLLUTION CONTROL BOARD  
January 20, 1994

OSMOSE WOOD PRESERVING, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 94-40  
 ) (Provisional Variance)  
 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)), Osmose Wood Preserving has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Osmose Wood Preserving to continue accumulating hazardous waste for a period in excess of ninety (90) days. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Tuesday, January 18, 1994. 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 a thirty (30)-day provisional variance from the ninety (90)-day limitation on the storage of hazardous wastes, as set forth in 35 Ill. Adm. Code 722.134(b), for the period from November 14, 1993 to December 14, 1993. The Agency Recommendation was filed January 18, 1994.

Upon receipt of the request, the Agency issued its recommendation, notifying the Board that due to unforeseen, temporary and uncontrollable circumstances, failure to grant the requested thirty (30)-day provisional variance would impose an arbitrary or unreasonable hardship on Petitioner.

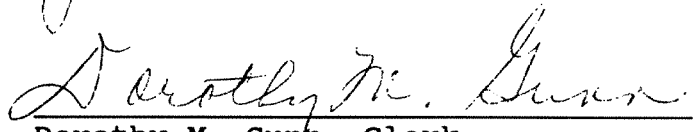
Provisional variances are by their very nature temporary. The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. (See 415 ILCS 5/35(b) & (c)). In provisional variances it is the responsibility of the Agency 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 Petitioner a provisional variance from 35 Ill. Adm. Code 722.134(b) from November 14, 1993 to December 14, 1993.

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 January, 1994, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board