

ILLINOIS POLLUTION CONTROL BOARD  
August 26, 1993

VILLAGE OF WINNETKA,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 93-154
	)	(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)), the Illinois Environmental Protection Agency (Agency), by and through its Director, Mary A. Gade, seeks a provisional variance for Village of Winnetka in order to allow it to use hot water to destroy the present infestation of zebra mussels on their inlet and within their intake pipelines for both their water treatment plant and power plant. The Agency Recommendation was filed August 25, 1993.

Specifically, the Agency recommends that we grant Village of Winnetka a 45-day provisional variance for its Cook County facility from the regulatory prohibition against violation of a water quality standard, as set forth in 35 Ill. Adm. Code 304.141(b), for the period of 45 days from the date of the Board's order or from when the Petitioner thermal treatment process for zebra mussel control is completed, 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. 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) & (c) (1992) (Ill. Rev. Stat. 1991, ch. 111½, pars. 1035(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 finding 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 304.141(b), on the following conditions:

1. The term of this provisional variance shall commence when the Petitioner, Village of Winnetka, initiates the thermal treatment process for zebra mussel control, and it shall expire on the date the Petitioner completes the required maintenance work, or after 45 days have elapsed, whichever comes first;
2. During the term of this provisional variance, petitioner shall maintain compliance with 35 Ill. Adm. Code 302.507, thermal limitations at the edge of a mixing zone. Petitioner shall monitor the water temperature at the inlet of the 20-inch and the 60-inch intake pipes. If a temperature rise of more than 3°F at the edge of the mixing zone is anticipated, the petitioner shall close the valve connecting the thermal plant to the intake pipe and shall start a low lift pump to draw the heated water out of the intake pipelines into the water treatment plant.
3. The Petitioner shall notify Robert Sulski of the Agency's Maywood Regional office by telephone, at 708/531-5900, when it initiates its thermal treatment process and when the thermal treatment process is completed, and the Petitioner shall confirm this notice in writing within five 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: Mark T. Books

4. 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 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 93-154, August 26, 1993.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Authorized Agent

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

The Agency recommendation did not include the customary recommendation that the Board grant the provisional variance subject to conditions, and the Board does not add conditions to the grant.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted by the Board on the 26<sup>th</sup> day of August, 1993, by a vote of 6-0.

Dorothy M. Gunn, Clerk  
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Illinois Pollution Control Board