

ILLINOIS POLLUTION CONTROL BOARD

August 8, 2002

CITY OF CARLYLE,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-11
	)	(Variance - Water)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

The City of Carlyle in Clinton County (Carlyle) seeks a variance from certain turbidity requirements in the Board’s primary drinking water standards. The Environmental Protection Act authorizes the Board to grant temporary relief from its regulations in the form of a variance. *See* 415 ILCS 5/35(a) (2000). The person requesting the variance must prove that compliance with the Board’s regulations “would impose an arbitrary and unreasonable hardship.” *Id.* Below, the Board briefly describes the Carlyle’s operations and variance request. The Board then accepts the variance petition for hearing.

Carlyle has a water treatment plant at 151 Jefferson in Carlyle, Clinton County. Carlyle explains in its July 22, 2002 petition for variance<sup>1</sup> that its plant provides potable water service to 12,209 residents within the city limits and the surrounding communities. *Pet.* at 4. According to the petition, the plant is a conventional surface water filtration plant. *Id.* at 6.

Carlyle seeks a variance from the Interim Enhanced Surface Water Treatment Rules at 35 Ill. Adm. Code 611.743, 611.744, and 611.745 that apply to public water systems serving over 10,000 people. *Pet.* at 3. The compliance date for the regulations was January 1, 2002. In its petition, Carlyle explains that, until December 18, 2001, Carlyle believed that it served fewer than 10,000 people, and was not able to meet the requirements by January 1, 2002. *Id.* at 9.

Carlyle states that it has prepared a plan of action and a work schedule for compliance with the regulations. *Pet.* at 9. The proposed improvements include modifications to continuously measure and record filtered water turbidity; replacement of backwash water feed valves; replacement of dual sand and anthracite media in all four filters; and modifications to the filter control cycle. *Id.* at 10-11. Carlyle expects compliance with the regulations by

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<sup>1</sup> Carlyle’s petition is cited as “*Pet.* at \_\_\_\_.”

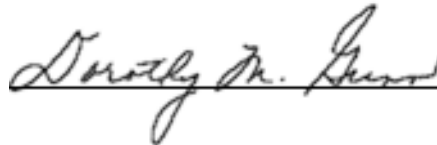
March 1, 2003. *Id.* at 11. Carlyle asks the Board to hold a hearing and requests that the variance be effective for the period of January 1, 2002 until March 1, 2003. *Id.* at 1.

Carlyle's petition meets the content requirements of 35 Ill. Adm. Code 104.406. The Board accepts the petition for hearing. Carlyle has the burden of proof. 35 Ill. Adm. Code 104.238. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/38(a) (2000)), which only Carlyle may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Carlyle may deem the variance granted. 415 ILCS 5/38(a) (2000). Currently, the decision deadline is November 19, 2002 (the 120th day after July 22, 2002). *See* 35 Ill. Adm. Code 104.232. The Board meeting immediately before the decision deadline is scheduled for November 7, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file a recommendation as to the disposition of the petition by September 5, 2002, which is 45 days after the filing of the petition, or where there has been a hearing scheduled, at least 30 days before hearing, whichever is earlier. *See* 35 Ill. Adm. Code 104.216(b). The recommendation must comply with the content requirements of 35 Ill. Adm. Code 104.216(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 8, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board