

ILLINOIS POLLUTION CONTROL BOARD
April 3, 1997

CITGO PETROLEUM CORPORATION,)	
)	
Petitioner,)	
)	
v.)	PCB 97-170
)	(Provisional Variance - NPDES)
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)), Citgo Petroleum Corporation (petitioner) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance from Section 35(b) of the Act (415 ILCS 5/35(b)), to the petitioner. Such request for a provisional variance and the notification of recommendation were filed with the Board by the Agency on Tuesday, April 1, 1997. 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 Act (415 ILCS 5/35(b)), the Agency, by and through its Director, Mary A. Gade, seeks a provisional variance to allow petitioner to discharge hydrostatic test water offsite through its existing National Pollutant Discharge Elimination System (NPDES) permitted outfall to allow for repair and testing of petroleum tanks

Specifically, the Agency recommends that we grant petitioner a 45-day provisional variance for its Cook County facility from the NPDES effluent discharge requirements, as set forth in 304.141(b). This variance period shall begin when petitioner begins discharging the water for the hydrostatic test and continue until the discharge is completed, but not longer than 45 days.

The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency agrees that the repairs are necessary and 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 and maintains that granting a provisional variance would violate no federal laws. The Agency believes 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 that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants the petitioner a provisional variance from 304.141(b), on the following conditions:

1. The term of this provisional variance shall commence when petitioner begins discharging the water for the hydrostatic test and continue until the discharge is completed, but not longer than 45 days.
2. The petitioner shall notify Robert Sulski at the Agency's Maywood Regional Office by telephone, at 708/531-5900, when the work on the tertiary filter is completed. Petitioner shall confirm this notice in writing within five (5) days, addressed as follows:

Illinois Environmental Protection Agency
 ATTN: Mark T. Books
 Bureau of Water, Compliance Assurance Section
 2200 Churchill Road
 P.O. Box 19276
 Springfield, Illinois 62794-9276

3. The petitioner shall maintain compliance with its current NPDES permit limits during the time hydrostatic test water is discharged. Petitioner shall verify compliance with its NPDES permit limits prior to releasing the hydrostatic test water.

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 97-170, April 3, 1997.

Petitioner

Authorized Agent

Title

Date

IT IS SO ORDERED.

Board Member Kathleen M. Hennessey abstained.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (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 ____ day of _____, 1997, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board