

ILLINOIS POLLUTION CONTROL BOARD

August 21, 1997

CITY OF OREGON,	)	
	)	
Petitioner,	)	
	)	PCB 98-30
v.	)	(Provisional Variance - Water)
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by R.C. Flemal):

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b) (1996)), the City of Oregon (petitioner) located in Ogle County has requested that the Board grant a provisional variance from 35 Ill. Adm. Code 304.120 and 304.141(a) and imposed by National Pollutant Discharge Elimination System Permit (NPDES) No. IL0020184. Such request for a provisional variance and the notification of recommendation were filed with the Board by the Illinois Environmental Protection Agency (Agency) on August 19, 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 the Act (415 ILCS 5/35(b) (1996)), the Agency, by and through its Director, Mary A. Gade, seeks a provisional variance to allow petitioner to continue to operate its wastewater treatment facility while repair work is conducted on petitioner's clarifier. 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 believes that a denial of the requested provisional variance would create an arbitrary or unreasonable hardship on the petitioner.

Specifically, the Agency recommends that the Board grant petitioner a 45-day provisional variance for its Ogle County facility from the total suspended solids and biochemical oxygen demand effluent discharge requirements, as set forth in 35 Ill. Adm. Code 304.120 and 304.141(a) and imposed by NPDES Permit No. IL0020184. This variance period is recommended to commence on the date that the clarifier is removed from service, and to continue for 45 days.

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) (1996). 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 35 Ill. Adm. Code 304.120 and 304.141(a) and imposed by NPDES Permit No. IL0020184, subject to the following conditions:

1. The term of this provisional variance shall commence on the date that clarifier is removed from service and shall continue for 45 days, or until the unit is returned to service, whichever occurs first.
2. Petitioner shall operate its wastewater treatment facility during the term of this provisional variance in a manner that assures the best effluent practicable. Additionally, petitioner shall perform the necessary repair work on the clarifier as expeditiously as possible to minimize the period of time that the clarifier needs to be out of service.
3. During the variance period petitioner shall meet monthly average effluent concentration limits of 120 milligrams per Liter (mg/L) for biochemical oxygen demand effluent discharge and, 80 mg/L for total suspended solids.
4. The petitioner shall notify Dennis Connor at the Agency's Rockford regional office by telephone, at 815/987-7755, when the clarifier is removed from service and again when the clarifier is returned to service. Petitioner shall confirm this notice in writing within five (5) days, addressed as follows:

Illinois Environmental Protection Agency  
Bureau of Water, Compliance Assurance Section  
Attn: Mark T. Books  
1021 N. Grand Avenue East  
Springfield, IL 62702

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 98-30, August 21, 1997.

\_\_\_\_\_  
Petitioner

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

\_\_\_\_\_  
Title

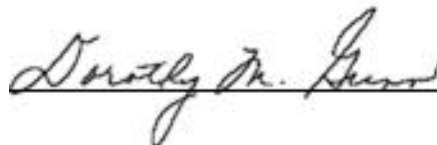
\_\_\_\_\_  
Date

IT IS SO ORDERED.

Board Member K.M. Hennessey abstained.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) 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 145 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 21st day of August 1997, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board