

ILLINOIS POLLUTION CONTROL BOARD
June 19, 2003

GENERAL DYNAMICS ORDNANCE AND)
TACTICAL SYSTEMS, INC.,)
)
Petitioner,)
)
v.) PCB 03-231
) (Provisional Variance - Land)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

On June 17, 2003, the Illinois Environmental Protection Agency (Agency) recommended that the Board grant a 30-day provisional variance to General Dynamics Ordnance and Tactical Systems, Inc. (GDOTS). The provisional variance from the hazardous waste accumulation time requirements of 35 Ill. Adm. Code 722.134 would allow GDOTS to keep one 30-gallon drum of Black Powder Contaminated Material and eight 30-gallon drums of RP-1315 Propellant, wet with water on-site for longer than the allowable 90 days, due to unforeseen, temporary and uncontrollable circumstances. The GDOTS facility is located in Marion, Williamson County. An extension of the 90-day period via a provisional variance is specifically provided for in 35 Ill. Adm. Code 722.134(b). This would allow GDOTS to obtain the necessary approval from the U.S. Department of Transportation (DOT) prior to shipping the material. The Agency states that failure to grant the provisional variance would impose an arbitrary or unreasonable hardship on GDOTS.

Section 35(b) of the Environmental Protection Act (415 ILCS 5/35(b) (2002)) provides:

The Board shall grant provisional variances, only upon notification from the Agency that compliance on a short-term basis with any rule or regulation, requirement or order of the Board, or with any permit requirement would impose an arbitrary or unreasonable hardship. Such provisional variances shall be issued within two working days of notification from the Agency. 415 ILCS 5/35(b) (2002); *see also* 35 Ill. Adm. Code 104.302.

A provisional variance lasts for no more than 45 days, but the Board can extend the time period up to an additional 45 days on the Agency's recommendation. Provisional variances granted to one person cannot exceed a total of 90 days during any calendar year. 415 ILCS 5/36(c) (2002); 35 Ill. Adm. Code 104.308.

The Board grants GDOTS a provisional variance pursuant to 35 Ill. Adm. Code 722.134(b), subject to the following conditions:

1. The variance will begin on June 12, 2003, and continue until July 14, 2003, for one 30-gallon drum of Black Powder Contaminated Material.
2. The variance will begin on June 11, 2003, and continue until July 11, 2003, for eight 30-gallon drums of RP-1315 Propellant, wet with water.

IT IS SO ORDERED.

If the General Dynamics Ordnance and Tactical Systems, Inc. chooses to accept this provisional variance, it must execute a Certificate of Acceptance of all terms and conditions of this provisional variance and, within ten days after the date of the above order, forward the executed certificate to the Agency at the following address:

Illinois Environmental Protection Agency
Bureau of Land, Compliance Assurance Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276.

The form of the certificate is as follows:

CERTIFICATE OF ACCEPTANCE

General Dynamics Ordnance and Tactical Systems, Inc. accepts and agrees to be bound by all terms and conditions of the Pollution Control Board's June 19, 2003 order in PCB 03-231.

Petitioner

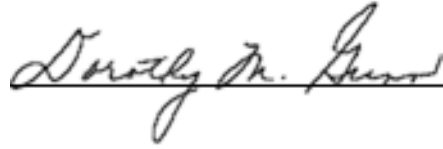
Authorized Agent

Title

Date

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 19, 2003, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board