

ILLINOIS POLLUTION CONTROL BOARD
June 17, 1998

CITY OF PONTIAC,)	
)	
Petitioner,)	
)	
v.)	PCB 98-167
)	(Provisional Variance - Water)
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) (1996)), the City of Pontiac, located in Livingston County (petitioner), has requested that the Board grant a provisional variance from certain conditions of its National Pollutant Discharge Elimination System (NPDES) Permit No. IL0030457 and 35 Ill. Adm. Code 304.141(a). The request for a provisional variance and the notification of recommendation were filed with the Board by the Illinois Environmental Protection Agency (Agency) on June 15, 1998. 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 maintenance work is completed on its east activated sludge plant. The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency agrees that the modification is 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 Livingston County facility from conditions and effluent discharge limits, as set forth in NPDES permit No. IL0030457 and 35 Ill. Adm. Code 304.141(a). This variance period is recommended to commence during 1998 when petitioner's east activated sludge plant is removed from service for painting and to continue until the work on the east activated sludge plant is completed, but not longer than 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 petitioner a provisional variance from NPDES permit No. IL0030457 and in 35 Ill. Adm. Code 304.141(a), subject to the following conditions:

1. This variance period shall commence during 1998 when petitioner's primary east activated sludge plant is removed from service and shall continue until the work on the east activated sludge plant is completed, but not longer than 45 days.
2. Petitioner shall treat 5.1 million gallons per day through its west activated sludge plant prior to discharging from outfalls 002, 003, 004, and 005. Petitioner shall continue to meet all its permit effluent limits
3. Petitioner shall notify Steve Baldwin at the Agency's Champaign regional office by telephone, at 217/333-8361, when the east activated sludge plant is removed from service and again when it 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
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Petitioner shall perform the necessary repair work on the east activated sludge plant as expeditiously as possible to minimize the time period that the unit is out of service.

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(3). 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 98-167, June 17, 1998.

Petitioner

Authorized Agent

Title

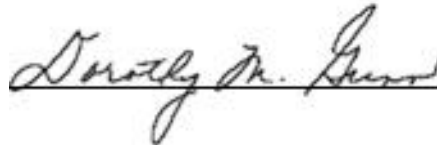
Date

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 172 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 17th day of June 1998 by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board