

ILLINOIS POLLUTION CONTROL BOARD
January 9, 1997

ROCK RIVER WATER RECLAMATION)
DISTRICT,)
)
Petitioner,)
)
v.) PCB 97-118
) (Provisional Variance - NPDES)
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)), Rock River Water Reclamation District (District) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow the District to continue operating during a period of wastewater treatment plant upgrades. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Tuesday, January 7, 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)), 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 construction work to install two new aeration tanks and circular clarifiers and to upgrade the existing aeration tanks is completed.

Specifically, the Agency recommends that we grant petitioner a 39-day provisional variance for its Winnebago County facility from the ammonia nitrogen, five-day carbonaceous biochemical oxygen demand and total suspended solids effluent discharge requirements, as set forth in 35 Ill. Adm. Code 302.212, 304.120(a) and 304.141(a). This variance period shall begin on December 24, 1996 and end on January 31, 1997.

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.

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 35 Ill. Adm. Code 302.212, 304.120(a) and 304.141(a), on the following conditions:

1. The term of this provisional variance shall commence on December 24, 1996 and end on January 31, 1997;
2. During the term of this provisional variance, petitioner shall meet weekly average concentration limits of 90 mg/l and monthly averages of 50 mg/l for total suspended solids; weekly average concentration limits of 60 mg/l and monthly averages of 50 mg/l for five-day carbonaceous biochemical oxygen demand; and weekly average concentration limits of 19 mg/l and monthly averages of 16 mg/l for ammonia nitrogen. Petitioner shall continue to meet the additional effluent limits in its National Pollutant Discharge Elimination System Permit No. IL0027201;
3. The petitioner shall operate its plant during the term of this provisional variance in a manner that assures the best effluent practicable; and:

The petitioner shall execute a copy of a Certificate of Acceptance of this provisional variance and forward that copy to the Agency addressed below; the petitioner shall forward that copy within ten (10) days of the date of this order of the Board.

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

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 97-118, January 9, 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 (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