

ILLINOIS POLLUTION CONTROL BOARD
November 15, 2001

VILLAGE OF PANAMA,)
)
 Petitioner,)
)
 v.) PCB 02-57
) (Provisional Variance - Water)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by C.A. Manning):

On September 20, 2001, the Board granted a 45-day provisional variance to the Village of Panama (Village). The provisional variance from 35 Ill. Adm. Code 304.120(a) and 304.141(a) allowed the Village to remove sludge and install a rock filter at its wastewater treatment facility in the Village of Panama, Bond County. Village of Panama v. IEPA, PCB 02-35 (September 20, 2001).

Due to delays resulting from rainfall, the Village's contractor was not able to complete the work during the original 45-day period. On November 13, 2001, the Illinois Environmental Protection Agency (Agency) recommended that the Board grant a 45-day provisional variance extension to the Village. The Agency states that failure to grant the provisional variance would impose an arbitrary or unreasonable hardship on the Village.

Section 35(b) of the Environmental Protection Act (415 ILCS 5/35(b) (2000)) 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 2 working days of notification from the Agency. 415 ILCS 5/35(b) (2000); *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) (2000); 35 Ill. Adm. Code 104.308.

The Board grants the Village a provisional variance from 35 Ill. Adm. Code 304.120(a) and 304.141(a), subject to the following conditions:

1. The variance will begin on November 1, 2001, and continue for 45 days or until completion of the project, whichever occurs earlier.
2. During the variance period, the Village must meet the monthly average effluent concentration of 60 mg/l CBOD and 65 mg/l TSS.
3. Petitioner must notify George Lambert of the Agency by telephone at 217/782-9720, when repairs on the wastewater treatment plant have begun and when repairs are completed. Written confirmation must be sent within five days to the following address:

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

IT IS SO ORDERED.

If the Village of Panama chooses to accept this provisional variance, it must execute a Certificate of Acceptance of all terms and conditions of this provisional variance and, within 10 days after the date of the above order, forward the executed certificate to the Agency at the above address. The form of the certificate is as follows:

CERTIFICATE OF ACCEPTANCE

The Village of Panama accepts and agrees to be bound by all terms and conditions of the Pollution Control Board’s November 15, 2001 order in PCB_02-57.

Petitioner

Authorized Agent

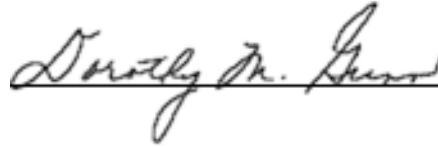
Title

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) (2000); *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 November 15, 2001, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board