

ILLINOIS POLLUTION CONTROL BOARD
November 20, 1997

CITIZENS UTILITIES COMPANY OF)	
ILLINOIS (Valley Marina Water)	
Reclamation Facility),)	
)	
Petitioner,)	
)	
v.)	PCB 98-70
)	(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)), Citizens Utilities Company of Illinois, (Valley Marina Water Reclamation Facility) (petitioner), located in Kendall County, Illinois, has requested that the Board grant a provisional variance from its National Pollutant Discharge Elimination System (NPDES) permit No. IL0031551, and 35 Ill. Adm. Code 304.120 and 304.141(a). Such request for a provisional variance and the notification of recommendation were filed with the Board by the Illinois Environmental Protection Agency (Agency) on November 18, 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 work is completed to replace the aeration system. The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency agrees that the modification is and 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 and maintains that a grant of a provisional variance would violate no federal laws. Accordingly, 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 30-day provisional variance for its Kendall County facility from the total suspended solids and biochemical oxygen demand effluent discharge requirements, as set forth in its NPDES permit No. IL0031551, and 35 Ill. Adm. Code 304.120 and 304.141(a). This variance period is recommended to commence on December 1, 1997, and to continue for 30 days, or until the units are returned to service, whichever occurs first.

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 a 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 its NPDES permit No. IL003155, and 35 Ill. Adm. Code 304.120 and 304.141(a), subject to the following conditions:

1. The term of this provisional variance shall commence December 1, 1997, and is to continue for 30 days, or until the aeration tanks with integral clarifiers units are 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 as expeditiously as possible to minimize the time period that the units need to be out of service.
3. Petitioner shall meet monthly average effluent concentration limits of 75 milligrams per liter (mg/l) for and biochemical oxygen demand and 75 mg/l for total suspended solids.
4. Petitioner shall notify Matthew Wertman or Jay Patel at the Agency's Maywood regional office by telephone, at 708/338-7900, when the work begins on the two units and again when the units are 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: Dan Ray
1021 N. Grand Avenue East
Springfield, IL 62702

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; 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

(We), _____, hereby accept and agree to be bound by all terms and conditions of the order of the Pollution Control Board in PCB 98-70, November 20, 1997.

Authorized Agent

Title

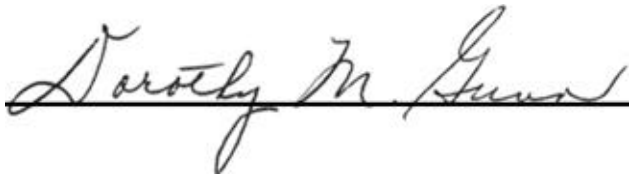
Date

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 20th day of November 1997, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board