

ILLINOIS POLLUTION CONTROL BOARD  
June 29, 1995

A.E. STALEY MANUFACTURING,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 95-186
	)	(Provisional Variance-Water)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by M. McFawn):

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), A.E. Staley Manufacturing (Staley) requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Staley to operate in violation of its National Pollutant Discharge Elimination System (NPDES) permit, IL0002381, in order to be able to use its newly constructed cooling tower. Such request for a provisional variance and the Notification of Recommendation were filed with the Board by the Agency on Wednesday, June 28, 1995. 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 Environmental Protection Act (Act) (415 ILCS 5/35(b)), the Agency, by and through its Director, Mary A. Gade, seeks a provisional variance for Staley in order to allow it to operate in violation of its NPDES permit.

Specifically, the Agency recommends that we grant Staley a (forty-five) 45 day provisional variance for its facility located in Macon County, from the requirements pertaining to carbonaceous biochemical oxygen demand (CBOD<sub>5</sub>) and total suspended solids (TSS) as set forth in 35 Ill. Adm. Code 304.120(c) and 304.141(a), for the period beginning when Staley begins using its newly constructed cooling tower and continuing for a period not longer than forty-five (45)-days or when Staley receives its revised NPDES permit, whichever occurs first.

The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency agrees that the modifications 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 finds 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 finding that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants Staley a provisional variance from 35 Ill. Adm. Code 304.120(c) and 304.141(a), on the following conditions:

1. The variance shall commence on the date when Staley begins using its newly constructed cooling tower and shall continue for a period not longer than forty-five (45)-days or when Staley receives its revised NPDES permit, whichever occurs first;
2. The discharge of stormwater shall be subject to the mass based limitations for CBOD<sub>5</sub> and TSS, as outlined in Staley's provisional variance petition;
3. Staley shall monitor the stormwater discharge for pH, oil and grease, CBOD<sub>5</sub> and TSS. Sampling for pH and oil and grease shall be grab samples taken during the first 30 minutes (or as soon thereafter as practicable) of a discharge. For CBOD<sub>5</sub> and TSS both a grab sample taken during the first 30 minutes (or as soon thereafter as practicable) of a discharge, and a flow weighted composite must be analyzed. A minimum of one grab sample shall be taken from any holding ponds or other impoundments with a retention period of greater than 24 hours. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches and least 72 hours from the previously measurable storm event. Flow weighted composites samples shall be taken for the entire event or the first three hours of the event, whichever is shorter. Visual inspections of the receiving stream shall also be conducted during the sampling time periods to ensure that Lake Decatur water quality is protected;
4. Staley shall submit a plan of study within forty-five (45)-days, for Agency review and approval, that addresses

possible water quality impacts to the receiving stream, and Lake Decatur, resulting from the discharge of stormwater from its facility. The plan of study shall include the following items:

- (a) Evaluation of means to reduce the potential for stormwater becoming contaminated with raw materials, intermediate products, final products, waste materials or by-products.
- (b) Review the use of the Best Management Practices (BMP) such as housekeeping measures to reduce the potential for stormwater contamination from process products.
- (c) If it is determined that the receiving stream or Lake Decatur would be impacted by the facility's stormwater discharge then the plan of study should include evaluation of solutions which would bring the discharge into compliance with state water quality standards.

Within ten (10) days of the date of this order of the Board Staley shall execute a copy of a Certificate of Acceptance of this provisional variance and forward that copy to the Agency addressed as follows:

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 95-186, June 29, 1995.

\_\_\_\_\_  
Petitioner

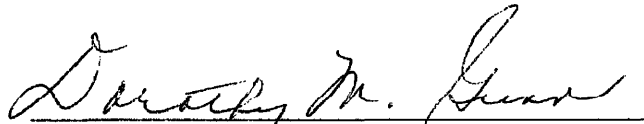
\_\_\_\_\_  
Authorized Agent

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control  
Board, do hereby certify that the above order was adopted on the  
29<sup>th</sup> day of June, 1995, by a vote of  
4-0.

  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board