

ILLINOIS POLLUTION CONTROL BOARD
March 19, 1998

CITY OF MATTOON,)	
)	
Petitioner,)	
)	
v.)	PCB 98-119
)	(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 Mattoon (petitioner), located in Coles County, Illinois, has requested that the Board grant a provisional variance from its National Pollutant Discharge Elimination System (NPDES) Permit No. IL0029831 and 35 Ill. Adm. Code 304.120(c) and 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 March 18, 1998. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two 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 conducted to rehabilitate petitioner's tertiary sand filter units. The Agency recommends that the Board grant the requested provisional variance with specified conditions and agrees that the modification is necessary. The Agency anticipates that the requested provisional variance would have minimal environmental impact on the receiving stream and is unaware of any public water supplies that the requested provisional variance would adversely impact. According to the Agency, no federal laws would be violated if the provisional variance is granted by the Board. 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 Coles County facility from the five-day carbonaceous biochemical oxygen demand, total suspended solids and five-day biochemical oxygen demand effluent discharge limits, as set forth in its NPDES Permit No. IL0029831 and 35 Ill. Adm. Code 304.120(c) and 304.141(a). This variance period is recommended to commence during 1998 when petitioner's tertiary sand filter units are removed from service and shall continue until the work on the units 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 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. IL0029831 and 35 Ill. Adm. Code 304.120(c) and 304.141(a), subject to the following conditions:

1. The term of this provisional variance shall commence during 1998 when the tertiary sand filter units are removed from service and shall continue until the work on the units are completed, but not longer than 45 days, whichever occurs first.
2. Petitioner shall operate its plant during the term of this provisional variance in a manner that assures the best effluent practicable. Additionally, petitioner shall meet the following effluent limits:

	<u>CBOD</u>	<u>Suspended Solids</u>
Monthly Average	20 mg/l	25 mg/l
Daily Maximum	30 mg/l	37 mg/l

Petitioner shall continue to meet the additional limits of its NPDES Permit No. IL0029831.

3. The petitioner shall notify C. Eliana Brown at the Agency's Champaign regional office by telephone, at 217/333-8361, when the tertiary sand filter units are removed from service and again when the units are returned to service. Petitioner shall confirm this notice in writing within five days, addressed as follows:

Illinois Environmental Protection Agency
ATTN: Mark T. Books
Bureau of Water, Compliance Assurance Section
1021 N. Grand Avenue East
Springfield, Illinois 62702

- 4. The petitioner shall perform the necessary repair work on the tertiary sand filter units as expeditiously as possible to minimize the time period that the units are out of service.

The 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; the petitioner shall forward that copy within ten 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 98-119, March 19, 1998.

Petitioner

Authorized Agent

Title

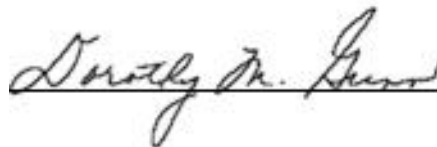
Date

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 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 19th day of March 1998 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board