

ILLINOIS POLLUTION CONTROL BOARD  
March 16, 2000

UNITED STATES ARMY CORPS OF	)	
ENGINEERS-CRAB ORCHARD	)	
WILDLIFE REFUGE,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 00-152
	)	(Provisional Variance - Air)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On March 14, 2000, the Illinois Environmental Protection Agency (Agency) filed a request for provisional variance and notification of recommendation. The petitioner, United States Army Corps of Engineers (USACE), is requesting a provisional variance from 35 Ill. Adm. Code 237.102, which prohibits open burning without a permit so that it may open burn explosive waste on site at the Crab Orchard National Wildlife Refuge. The Agency recommends that the Board grant a 45-day provisional variance, commencing April 3, 2000, and ending May 17, 2000.

The War Department purchased the eastern portion of the Crab Orchard Wildlife Refuge (Crab Orchard) to construct the former Illinois Ordnance Plant, which closed in 1945. In 1947, ownership was transferred to the U.S. Department of the Interior. Crab Orchard has been listed on the National Priorities List pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. § 6901 *et seq.*). The USACE has contracted with Montgomery Watson to provide remediation services at Crab Orchard. USACE is requesting a provisional variance to allow Montgomery Watson to open burn 800 pounds of bulk 2,4,6-trinitrotoluene (TNT) which was generated as a result of remediation activities.

Crab Orchard is located near Marion in Williamson County, Illinois. Williamson County is designated as an attainment area meeting all National Ambient Air Quality Standards (NAAQS) for all criteria pollutants. The Agency agrees with USACE that it is unlikely the proposed variance will cause or contribute to any violations of any NAAQS. In making its recommendation, the Agency agrees with USACE that the potential for waste explosion

outweighs the minimal environmental harm that may be created by safely eliminating the explosive nature of the materials through open burning at the site.

The Board grants petitioner a provisional variance from 35 Ill. Adm. Code 237.102. The Board is required, in a provisional variance, to adopt a formal order, assure formal maintenance of the record, assure the enforceability of the variance, and provide notification of the action by press release. Pursuant to Section 35(b) of the Environmental Protection Act (415 ILCS 5/35(b) (1998)), the Board must issue the provisional variance within two days of the filing.

The provisional variance is granted for 45 days, subject to the following conditions:

1. The provisional variance shall begin April 3, 2000, and shall end on May 17, 2000;
2. The provisional variance only allows the open burning of the materials that were accumulated through the soil remediation process;
3. Open burning shall be conducted pursuant to USACE's federally approved Record of Decision;
4. Notification shall be sent to the Agency when the burning is commenced and again when it is completed. These notifications shall be sent to:

Deborah J. Williams, Assistant Counsel  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

5. Within ten days of the date of this order, petitioner shall execute a certificate of acceptance and agreement which shall be sent to Deborah J. Williams at the above address. The certification should 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 00-152 dated March 16, 2000.

\_\_\_\_\_  
Petitioner

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

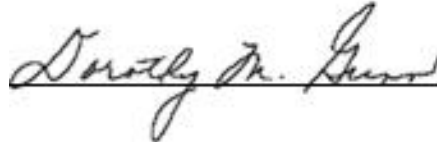
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) 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 172 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 16th day of March 2000 by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board