

ILLINOIS POLLUTION CONTROL BOARD
December 16, 1994

SHELL OIL COMPANY,)
ARGO TERMINAL,)
)
Petitioner,)
)
v.) PCB 94-385
) (Provisional Variance)
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)), Shell Oil Company (Shell) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Shell to hydrostatically test a new aboveground storage tank. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Thursday, December 15, 1994. 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)), the Agency, by and through its Director, Mary A. Gade, seeks a provisional variance for Shell in order to allow Shell to hydrostatically test a new aboveground storage tank.

Specifically, the Agency recommends that we grant Shell a forty-five (45)-day provisional variance for its Cook County facility from the effluent requirements, as set forth in 35 Ill. Adm. Code 304.141(b), for the period from when the petitioner begins discharging the water used for the hydrostatical test, and continuing until the petitioner completes the discharge procedures, but not for longer than 45 days.

The Agency recommends that the Board grant the requested provisional variance with specified conditions. 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 the petitioner a provisional variance from 35 Ill. Adm. Code 304.141(b), on the following conditions:

1. The term of this provisional variance shall commence when the petitioner, Shell, begins discharging the water used for the hydrostatical test, and continue until the petitioner completes the discharge procedures, but not for longer than 45 days, whichever comes first;
2. The petitioner shall notify Robert Sulski of the Agency's Maywood Regional office by telephone, at (708) 531-5900, when the water used to hydro test the new storage tank begins to be discharged and again when the process is complete. The petitioner shall confirm this notice in writing within five (5) days, addressed as follows:

Illinois Environmental Protection Agency
Division of Water Pollution Control
Compliance Assurance Section
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

Attention: Mark T. Books

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 (10) 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 94-385, December 16, 1994.

Petitioner

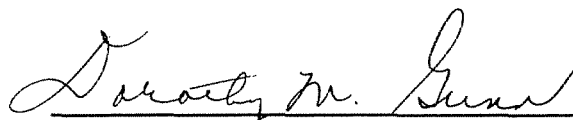
Authorized Agent

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
16th day of December, 1994, by a vote of
4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board