

ILLINOIS POLLUTION CONTROL BOARD
December 2, 1993

BONCOSKY OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 93-238
)	(Provisional Variance)
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)), Boncosky Oil Company has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Boncosky Oil Company's gasoline dispensing operations (service stations) to continue operating even though it did not install operational vapor recovery equipment by November 1, 1993. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Tuesday, November 30, 1993. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing.

Specifically, the Agency recommends that we grant Boncosky Oil Company a forty-five (45)-day provisional variance for five (5) of its facilities located in Kane and McHenry Counties in the Chicago metropolitan statistical area from the Stage II vapor recovery requirements, as set forth in 35 Ill. Adm. Code 218.586, for the period beginning November 1, 1993, and continuing for forty-five (45) days or until the required vapor recovery equipment is installed, whichever comes first.

The Agency's provisional variance recommendation states that Boncosky Oil Company has requested a provisional variance on behalf of numerous of its service stations in the Chicago area, located as follows:

<u>County</u>	<u>Number of Stations</u>
McHenry	4
Kane	1

The addresses of those stations are listed as follows:

<u>County</u>	<u>City or Village</u>	<u>Street Address</u>
Kane	Elgin	1725 West Larkin
McHenry	Algonquin	609 South Main
McHenry	Crystal Lake	451 Virginia Street

McHenry	Fox River Grove	400 Northwest Highway
McHenry	Woodstock	2025 South Eastwood Drive

Upon receipt of the request, the Agency issued its recommendation, notifying the Board that the failure to grant the requested forty-five (45)-day provisional variance would impose an arbitrary or unreasonable hardship on Petitioner. The Agency recommendation states that installation of Stage II vapor recovery equipment at the Boncosky Oil Company facilities is not possible by the November 1, 1993 deadline for compliance because Tokheim is in the last stages of CARB approval for vacuum assist vapor recovery equipment for its gasoline dispensers, and that equipment was not available before the compliance deadline. Further, Boncosky Oil Company is awaiting Agency approval of a corrective action plan. Installation of Stage II vapor recovery equipment before the corrective action would mean its removal when corrective action is undertaken.

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) & (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.

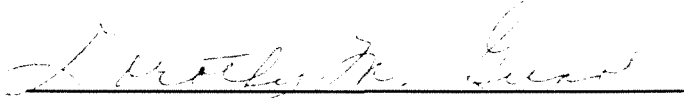
Having received the Agency recommendation notifying the Board that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 218.586, subject to the following conditions:

1. The term of this provisional variance shall commence on November 8, 1993, and it shall expire on the date the Petitioner completes the required installation of vacuum assist Stage II vapor recovery equipment, or after forty-five (45) days have elapsed, whichever comes first;
2. The Petitioner shall notify the Agency of the installation of the vapor recovery equipment, by sending notification addressed as follows:

Mr. Terry Sweitzer, P.E.
Manager, Air Monitoring Section
Illinois Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 19276
Springfield, Illinois 62794-9276

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 2nd day of December, 1993, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board