

ILLINOIS POLLUTION CONTROL BOARD
December 2, 1993

THORNTON OIL COMPANY,)
)
 Petitioner,)
)
 v.) PCB 93-241
) (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)), Thornton Oil Company has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow several of Thornton Oil Company's gasoline dispensing operations (service stations) to continue operating even though they 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 Thornton Oil Company a forty-five (45)-day provisional variance for sixteen (16) of its facilities located in Cook, DuPage, Kane, Lake, and Will 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 Thornton 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>
Cook	9
DuPage	4
Kane	1
Lake	1
Will	1

The addresses of those stations are listed as follows:

<u>County</u>	<u>City or Village</u>	<u>Street Address</u>
Cook	Blue Island	12052 South Western Avenue
Cook	Cicero	2351 Cicero Avenue South
Cook	Forest Park	601 South Harlem Avenue
Cook	Franklin Park	2640 Mannheim Road
Cook	Oak Forest	14805 South Cicero Avenue
Cook	Orland Park	7600 West 159th Street
Cook	Palatine	100 East Dundee Road
Cook	Park Ridge	1118 Touhy
Cook	Streamwood	2 North Barrington Road
DuPage	Addison	800 West Lake Street
DuPage	Bensenville	1225 Devon Avenue
DuPage	Bloomingtondale	190 East Lake Street
DuPage	Villa Park	250 East Roosevelt Road
Kane	North Aurora	322 South Lincoln Way
Lake	Round Lake Beach	180 East Rollins Road
Will	Joliet	1801 West Jefferson Street

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 Thornton Oil Company facilities is not possible by the November 1, 1993 deadline for compliance because Thornton Oil Company has contracted for the installation of vapor recovery equipment, but that equipment and the crews necessary to install it was not available before the compliance deadline.

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:

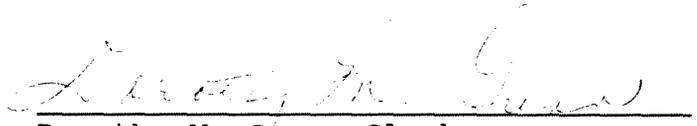
1. The term of this provisional variance shall commence on November 1, 1993, and it shall expire on the date the Petitioner completes the required installation of vacuum assist Stage II vapor recovery equipment, or after forty-five (45) days have elapsed, whichever comes first;

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 24th day of September, 1993, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board