

ILLINOIS POLLUTION CONTROL BOARD  
September 15, 1994

CITY OF KNOXVILLE,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 94-254
	)	(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)), the City of Knoxville has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow the City of Knoxville to continue operating during a period of wastewater treatment plant repairs. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Wednesday, September 14, 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 Environmental Protection Act (Act) (415 ILCS 5/35(b)), the Illinois Environmental Protection Agency (Agency), by and through its Director, Mary A. Gade, seeks a provisional variance for the City of Knoxville in order to allow it to continue operating during a period of wastewater treatment plant repairs.

Specifically, the Agency recommends that we grant the City of Knoxville a (forty-five) 45-day provisional variance for its Knox County facility from the excess flow limitation requirements, as set forth in 35 Ill. Adm. Code 304.141, for the period from when the petitioner begins painting by removing its activated sludge treatment unit from service, and continuing until the petitioner returns that unit to service, but not for longer than 45 days.

The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency agrees that the repairs are necessary. The Agency anticipates that the requested provisional variance would have minimal environmental impact on the receiving stream. 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, on the following conditions:

1. The term of this provisional variance shall commence when the petitioner, the City of Knoxville, initiates painting its wastewater treatment plant, by bypassing the first of its activated sludge treatment units, and it shall expire on the date the petitioner completes the required maintenance work, or after forty-five (45) days have elapsed, whichever comes first;
2. During the term of this provisional variance, the petitioner shall be allowed to discharge excess flow from its treatment plant over 0.5 MGD from Outfall 001A and shall be limited to the effluent limits as stated in its NPDES permit;
3. The petitioner shall notify Ken Newman of the Agency's Peoria Regional office by telephone, at (309)693-5463, when the first activated sludge treatment unit is removed from service and again when the last unit is returned to service, and 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

4. The petitioner shall perform the necessary painting and repair work as expeditiously as possible so as to minimize the period of time the treatment 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 (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 94-254, September 15, 1994.

\_\_\_\_\_  
Petitioner

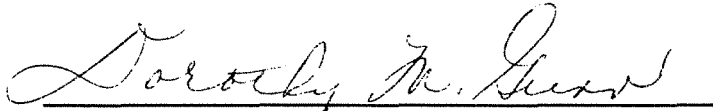
\_\_\_\_\_  
Authorized Agent

\_\_\_\_\_  
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 15<sup>th</sup> day of September, 1994, by a vote of 6-0.

  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board