

ILLINOIS POLLUTION CONTROL BOARD  
April 21, 1994

CITY OF SHELBYVILLE,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 94-128
	)	(Provisional Variance)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD:

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), the City of Shelbyville has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow the City of Shelbyville to continue operating during a period of wastewater treatment plant repairs to its effluent force main. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on April 20, 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 Shelbyville 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 Shelbyville a forty-five (45)-day provisional variance for its Shelby County facility from the biochemical oxygen demand (BOD<sub>5</sub>), and suspended solids (TSS) effluent requirements, as set forth in 35 Ill. Adm. Code 309.102, for the period from when the petitioner removes the force main from service and begins discharging from the wastewater treatment plant into Robinson Creek, and continuing until the petitioner returns the force main 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) & (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 309.102, on the following conditions:

1. This variance shall begin when the force main is removed from service and Petitioner begins discharging into Robinson Creek and shall continue for forty-five (45) days or until the force main is returned to service, whichever comes first.

2. The petitioner shall notify Joe Koronkowski of the Agency's Champaign Regional office by telephone, at 217-333-8361, when it removes its force main unit from service and when it returns the unit 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

3. During the provisional variance, Petitioner shall operate its sewage treatment plant so as to produce the best effluent practicable. Additionally, Petitioner shall perform the necessary repair work on the effluent force main as expeditiously as possible.

4. During the term of this provisional variance, Petitioner shall meet monthly average effluent limits at outfall 002 of 10 mg/l BOD<sub>5</sub>, 12 mg/l SS and 4.0 mg/l ammonia nitrogen (all concentration limits).

5. During the variance period, Petitioner shall monitor for its effluent parameter limits as required by its NPDES permit. Petitioner shall also maintain compliance with its current limits for pH and phosphorous.

6. 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 94-128, April 21, 1994.

\_\_\_\_\_  
Petitioner

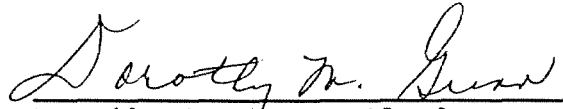
\_\_\_\_\_  
Authorized Agent

\_\_\_\_\_  
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 21<sup>st</sup> day of April, 1994, by a vote of 6-0.

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