

ILLINOIS POLLUTION CONTROL BOARD
October 6, 1994

METROPOLITAN WATER)
RECLAMATION DISTRICT)
OF GREATER CHICAGO,)
)
Petitioner,)
)
v.) PCB 94-285
) (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)), Metropolitan Water Reclamation District of Greater Chicago (MWRDGC) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow MWRDGC to continue operating during a period of wastewater treatment plant modifications. Such request for a provisional variance and the Notification of Recommendation were filed with the Board by the Agency on Wednesday, October 6, 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 MWRDGC in order to allow it to continue operating during a period of wastewater treatment plant modifications.

Specifically, the Agency recommends that we grant MWRDGC 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(a) and 304.102(a) for the period from when the petitioner continues modifications to its wastewater treatment plant, by continuing to remove the eighteen drop shafts from service, and until the petitioner returns the Cal-Sag section of Tunnel and Reservoir Project (TARP) to service, but not for longer than 45 days. This recommendation is essentially that the Board extend a previously-granted forty-five (45)-day provisional variance that expired October 3, 1994. The docket number of the previous provisional variance was PCB 94-219, granted on August 11, 1994.

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(a) and 304.102(a), on the following conditions:

1. The term of this provisional variance shall commence on October 4, 1994 and it shall expire on the date the petitioner completes the required construction work, or after forty-five (45) days have elapsed, whichever comes first;
2. The petitioner shall notify Rob Sulski of the Agency's Maywood Regional office by telephone, at (708)338-7900, when necessary construction work is completed and when it returns the Cal-Sag section of TARP 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: Dan Ray

3. The petitioner shall immediately inform the Agency of any adverse circumstances that may arise, due to any abnormal precipitation events or connection related problems.

4. The petitioner shall operate its Calumet Wastewater Reclamation Plant in such a manner as to treat the highest possible influent flow. Petitioner shall also perform the necessary work as expeditiously as possible.

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 94-286, October 6, 1994.

Petitioner

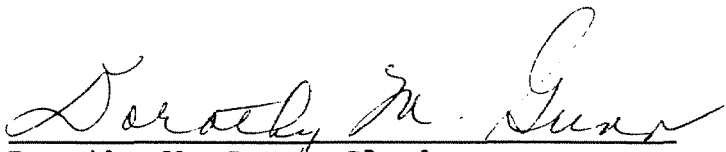
Authorized Agent

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 6th day of October, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board