

ILLINOIS POLLUTION CONTROL BOARD
August 24, 1995

A.E. STALEY MANUFACTURING,)	
)	
Petitioner,)	
)	
v.)	PCB 96-43
)	(Provisional Variance-Water)
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)), A.E. Staley Manufacturing (Staley) requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Staley to operate in violation of its National Pollutant Discharge Elimination System (NPDES) permit, IL0002381, in order to be able to use its newly constructed cooling tower. Such request for a provisional variance and the Notification of Recommendation were filed with the Board by the Agency on Wednesday, August 23, 1995. 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 Agency, by and through its Director, Mary A. Gade, seeks a provisional variance for Staley in order to allow it to operate in violation of its NPDES permit.

Specifically, the Agency recommends that we grant Staley a (forty-five) 45 day provisional variance for its facility located in Macon County, from the requirements pertaining to carbonaceous biochemical oxygen demand (CBOD₅) and total suspended solids (TSS) as set forth in 35 Ill. Adm. Code 304.120(c) and 304.141(a), for the period beginning August 13, 1995 and continuing for forty-five (45)-days or until Staley receives its revised NPDES permit, whichever occurs first.

This recommendation is essentially that the Board extend a previously-granted provisional variance that expired August 12, 1995. The docket number of the previous provisional variance was PCB 95-186, granted on June 29, 1995.

The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency agrees that the modifications 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 Staley a provisional variance from 35 Ill. Adm. Code 304.120(c) and 304.141(a), on the following conditions:

1. The variance shall commence on beginning August 13, 1995 and continuing for forty-five (45)-days or until Staley receives its revised NPDES permit, whichever occurs first;
2. The discharge of stormwater shall be subject to the mass based limitations for CBOD₅ and TSS, as outlined in Staley's provisional variance petition;
3. Staley shall monitor the stormwater discharge for pH, oil and grease, CBOD₅ and TSS. Sampling for pH and oil and grease shall be grab samples taken during the first 30 minutes (or as soon thereafter as practicable) of a discharge. For CBOD₅ and TSS both a grab sample taken during the first 30 minutes (or as soon thereafter as practicable) of a discharge, and a flow weighted composite must be analyzed. A minimum of one grab sample shall be taken from any holding ponds or other impoundments with a retention period of greater than 24 hours. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches and least 72 hours from the previously measurable storm event. Flow weighted composites samples shall be taken for the entire event or the first three hours of the event, whichever is shorter. Visual inspections of the receiving stream shall also be conducted during the sampling time periods to ensure that Lake Decatur water quality is protected;
4. Staley shall initiate a Stormwater plan which shall include the following:

- (a) Identify the source of the stormwater pollutants.
- (b) Identify the poundage of each pollutant source.
- (c) Determine how each pollutant enters the stormwater system.
- (d) Develop plans to control and prevent pollutants from entry into stormwater.

Within ten (10) days of the date of this order of the Board Staley shall execute a copy of a Certificate of Acceptance of this provisional variance and forward that copy to the Agency addressed as follows:

Illinois Environmental Protection Agency
 Bureau of Water, Compliance Assurance Section
 2200 Churchill Road
 P.O. Box 19276
 Springfield, Illinois 62794-9276

Attention: Mark T. Books

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 96-43, August 24, 1995.

 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 24th day of August, 1995, by a vote of 7-0.

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