

ILLINOIS POLLUTION CONTROL BOARD-
November 4, 1993

SHELL OIL COMPANY,)
)
 Petitioner,)
)
 v.) PCB 93-208
) (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)), Shell Oil Company has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow several of Shell Oil Company's gasoline dispensing operations (service stations) to continue operating even though they will not have installed 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 2, 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 Shell Oil Company a forty-five (45)-day provisional variance for one-hundred and twenty one (121) of its facilities located in six (6) 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 Shell 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	67
DuPage	23
Kane	4
Lake	10
McHenry	8
Will	9

The addresses of those stations are listed in an attachment to the Agency's recommendation as follows:

<u>County</u>	<u>City or Village</u>	<u>Street Address</u>
Cook	BARRINGTON	100 NW HWY/MAIN
Cook	BERWYN	7143 W ROOSEVELT ROAD
Cook	BLUE ISLAND	11901 S WESTERN (GC)
Cook	BRIDGEVIEW	7901 S ROBERTS RD/79TH
Cook	BROADVIEW	2425 W ROOSEVELT RD
Cook	BURBANK	7900 S CICERO AVE
Cook	CHICAGO	4002 W. CHGO/PULASKI
Cook	CHICAGO	2013 N. LARAMIE/GRAND
Cook	CHICAGO	2401 W. ROOSEVELT/WEST
Cook	CHICAGO	1160 W. DIVERSEY/RACIN
Cook	CHICAGO	350 W. CHICAGO AVE
Cook	CHICAGO	11100 S CORLISS/I-94
Cook	CHICAGO	801 W GARFIELD/HALSTED
Cook	CHICAGO	2941 E 83RD/COMMERICAL
Cook	CHICAGO	7201 W. HIGGINS/HARLEM
Cook	CHICAGO	215-25 W 31ST ST/WELLS
Cook	CHICAGO	3201 W 26TH ST/KEDZIE
Cook	CHICAGO	3181 N. MILWAUKEE/BELM
Cook	CHICAGO	5701 N BROADWAY/HOLLYW
Cook	CHICAGO	30 W. ONTARIO/DEARBORN
Cook	CHICAGO	4401 N. CICERO/MONTROS
Cook	CHICAGO	4346 N. WESTERN
Cook	CHICAGO	5201 N. WESTERN/FOSTER
Cook	CHICAGO	6401 N. RIDGE/DEVON
Cook	CHICAGO	6000 N. WESTERN/PETERS
Cook	CHICAGO	130 W. NORTH/LASALLE
Cook	CHICAGO	505 N. ASHLAND/GRAND
Cook	CHICAGO	801 W. ADDISON
Cook	CHICAGO	1400 W FULLERTON/SOUTH
Cook	COUNTRYSIDE	6101 S LA GRANGE RD
Cook	DOLTON	1445 E SIBLEY/MICHIGAN
Cook	EVANSTON	101 RIDGE/HOWARD
Cook	EVERGREEN PARK	2635 W. 87TH @ TALMAN
Cook	FOREST PARK	7201 W. MADISON
Cook	FRANKLIN PARK	9601 W. GRAND
Cook	HANOVER PARK	1597 W IRVING PK/BARRN
Cook	HOFFMAN ESTATES	2 E. HIGGINS
Cook	LA GRANGE	6701 JOLIET RD
Cook	LINCOLNWOOD	6400 LINCOLN/DEVON
Cook	LINCOLNWOOD	7201 N. CICERO/TOUHY
Cook	MATTESON	4755 VOLMER/CICERO
Cook	MAYWOOD	1209 S. 1ST AVE
Cook	MORTON GROVE	6941 W. DEMPSTER/WAUKE
Cook	MORTON GROVE	5600 DEMPSTER
Cook	MOUNT PROSPECT	927 S. BUSSE/GOLF
Cook	MOUNT PROSPECT	1798 S ELMHURST/ALGONQ
Cook	MOUNT PROSPECT	820 N. RIVER/EUCLID
Cook	NILES	5900 TOUHY/LEHIGH
Cook	NORTHLAKE	70 E. NORTH/PRATER
Cook	OAK LAWN	10601 S CICERO AVE. (GC)

Cook	OAK FOREST	16702 S CICERO AVE
Cook	OAK PARK	1 W. HARRISON
Cook	PALATINE	1393 E. DUNDEE ROAD
Cook	PALOS PARK	13056 S LA GRANGE RD
Cook	PALOS HEIGHTS	12121 S RIDGELAND
Cook	PARK RIDGE	1200 TOUHY/GREENWOOD
Cook	PROSPECT HTS	2 N. ELMHURST/CP MCDON
Cook	RIVER FOREST	7201 W. NORTH/HARLEM
Cook	SCHAUMBURG	575 S. ROSELLE ROAD
Cook	SCHAUMBURG	517 MALL/HIGGINS
Cook	SCHAUMBURG	2291 MEACHUM/ALGONQUIN
Cook	SKOKIE	5025 OLD ORCHARD ROAD
Cook	SKOKIE	5055 W. TOUHY AVE
Cook	TINLEY PARK	17101 S HARLEM AVE
Cook	TINLEY PARK	8401 W 159TH ST. (GC)
Cook	WESTCHESTER	10200 W ROOSEVELT RD
Cook	WILMETTE	399 RIDGE/WILKETTE
DuPage	ADDISON	500 E. LAKE
DuPage	BENSENVILLE	4 W. IRVING PARK/YORK
DuPage	BLOOMINGDALE	201 E. LAKE
DuPage	BURR RIDGE	601 S FRONTAGE RD (GC)
DuPage	CAROL STREAM	106 W NORTH/GARY
DuPage	DARIEN	8226 S CASS / I-55
DuPage	DOWNERS GROVE	2212-50 OGDEN/BELMONT
DuPage	DOWNERS GROVE	10 S 281 LEMONT RD/ I-
DuPage	ELMHURST	103 W. 3RD/YORK
DuPage	ELMHURST	654 W. NORTH/RT 83
DuPage	ELMHURST	301 W. BUTTERFIELD/SPR
DuPage	HINSDALE	210 E OGDEN/YORK
DuPage	LISLE	4300 LINCOLN/WARRENVIL
DuPage	LOMBARD	18W 622 ROOSEVELT/MEYE
DuPage	NAPERVILLE	1295 S RICKERT/75TH
DuPage	OAK BROOK	2210 W 22ND ST
DuPage	ROSELLE	4 IRVING PARK/ROSELLE
DuPage	VILLA PARK	401 E. ST CHARLES RD
DuPage	VILLA PARK	17W 621 ROOSEVELT/MIDW
DuPage	WHEATON	NEC NAPERVILLE/EAST LO
DuPage	WHEATON	100 W. GENEVA/MAIN
DuPage	WOOD DALE	110 E IRVING PK/WOOD D
DuPage	WOODRIDGE	7500 LEMONT RD/75TH ST
Kane	CARPENTERSVILLE	25TH/HAZARD
Kane	GENEVA	1491 E STATE ST @ KIRK
Kane	ST. CHARLES	2500 E. MAIN/DUNHAM
Kane	WEST DUNDEE	RT 31(8TH ST)/RT 72(MA
Lake	BUFFALO GROVE	50 E. LAKE/COOK
Lake	DEER PARK	20034 N HWY 12 LAKE/CO
Lake	DEERFIELD	655 WAUKEGAN/LONGFELLO
Lake	DEERFIELD	2 WAUKEGAN/COUNTYLINE
Lake	HIGHLAND PARK	1411 PARK AVE
Lake	HIGHLAND PARK	10 SKOKIE HWY/CNTY LIN
Lake	LAKE FOREST	193 E. DEER PATH/OAKWO
Lake	LIBERTYVILLE	1207 W. PARK

Lake	MUNDELEIN	25809 N. MIDLOTHIAN
Lake	WAUKEGAN	2135 N. GREENBAY ROAD
McHenry	ALGONQUIN	2 N. MAIN(RT 31)/RT 62
McHenry	CRYSTAL LAKE	681 TERRA COTTA (RTS.
McHenry	CRYSTAL LAKE	4811 NORTHWEST HWY
McHenry	CRYSTAL LAKE	220 E. VIRGINIA/KEITH
McHenry	FOX RIVER GROVE	848 NORTHWEST HWY
McHenry	MARENGO	302 E. GRANT ST.
McHenry	MCHENRY	3110 W RT 120
McHenry	MCHENRY	2022 W. ROUTE 120
Will	BOLINGBROOK	255 N NAPERVILLE/BOUGH
Will	CRETE	1400 E STEGER RD./I-39
Will	FRANKFORT	7600 W RTE 30(GC)
Will	JOLIET	4230 W JEFFERSON(US 52
Will	JOLIET	3021 PLAINFIELD RD(US3
Will	LOCKPORT	12810 143RD @ BELL
Will	LOCKPORT	15861 BELL RD.(GC)
Will	STEGER	3507 CHICAGO RD.(GC)
Will	STEGER	500 W 234TH ST/KING

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 Shell Oil Company facilities is not possible by the November 1, 1993 deadline for compliance because Dresser-Wayne is in the last stages of CARB approval for vacuum assist vapor recovery equipment for its gasoline dispensers, and that equipment will not be available before the compliance deadline.

The Agency's recommendation does not itself list which of the various stations it recommends a grant of the provisional variance. Rather, the recommendation directs the Board's attention to lengthy listings of stations for which Shell Oil Company has requested a provisional variance. (Agency Recommendation, Attachment 5.) That listing includes many addresses that appear fragmentary. The Board has not corrected or augmented those addresses in any way, so we cannot address whether any of them are inadequate. The address information that we obtained from the attachment to the recommendation appears above in capital type, just as it appeared in that attachment.

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.

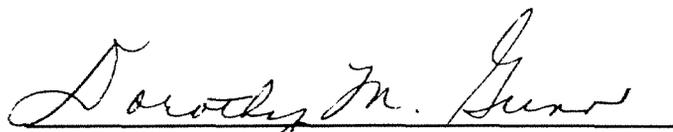
Having received the Agency recommendation notifying the Board that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 218.586, subject to the following conditions:

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 4th day of November, 1993, by a vote of 6-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board