

ILLINOIS POLLUTION CONTROL BOARD

June 17, 1993

CITY OF BENTON,)
)
 Petitioner,)
)
 v.) PCB 93-112
) (Provisional Variance)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by C. A. Manning):

This matter comes before the Board on receipt of an Agency Recommendation dated June 15, 1993. The recommendation refers to a request from the petitioner, City of Benton, for a provisional variance for its Franklin County facility from the biochemical oxygen demand (CBOD₅), and suspended solids (TSS) effluent requirements, as set forth in 35 Ill. Adm. Code 304.141(a) and 304.120(b), for the period from when the Petitioner begins repair work on the two trickling filters, by removing the small trickling filter from service, and continuing until the petitioner returns that unit to service, and will continue for 45 days or until 14 days after the large trickling filter is returned to full service, whichever occurs first.

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.

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) (1992) (Ill. Rev. Stat. 1991, ch. 111½, pars. 1035(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

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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 304.120(b), on the following conditions:

1. The term of this provisional variance shall commence during June 1993 when the Petitioner, City of Benton, removes the small trickling filter from service, and it shall expire 14 days after the date on which the petitioner returns its large trickling filter to full service, or after 45 days have elapsed, whichever occurs first;
2. During the term of this provisional variance, the effluent from the Petitioner's treatment plant shall not exceed concentrations of 40 mg/l CBOD₅ or 50 mg/l TSS (each on a monthly average);
3. The petitioner shall notify Bruon Marks of the Agency's Marion Regional office by telephone, at 618/997-4392, when it removes its small trickling filter from service and when its large trickling filter is return to service, and the Petitioner shall confirm this notice in writing within five 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: Barbara Conner

4. The petitioner shall perform the necessary maintenance and modification work as expeditiously as possible to minimize the time the filters are out of service, and the petitioner shall operate its plant during the term of this provisional variance in a manner that assures the best effluent practicable; and
5. 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 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 92-112, June 17, 1993.

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 by the Board on the 17th day of June, 1993, by a vote of 7-0.

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