

ILLINOIS POLLUTION CONTROL BOARD  
June 26, 1992

CITY OF MARION,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 92-97
	)	(Provisional Variance)
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on receipt of an Agency Recommendation dated June 24, 1992. The recommendation refers to a request from Petitioner, City of Marion, for a provisional variance for its Williamson County facility from the biochemical oxygen demand (CBOD<sub>5</sub>) and suspended solids (TSS) effluent requirements, as set forth in 35 Ill. Adm. Code 304.120(c), from 35 Ill. Adm. Code 304.141(a), and from 304.105 as it relates to ammonia nitrogen, as set forth in 302.212, for the period from when the Petitioner begins repairing the air diffusers within their aeration tanks, and continuing until the Petitioner returns that unit 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 and 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 Ill. Rev. Stat. 1989, 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 denial of the requested relief would impose an arbitrary and unreasonable hardship, the Board hereby grants Petitioner a provisional variance from 25 Ill. Adm. Code 304.120(c), 304.141(a), and from 304.105 as it relates to ammonia nitrogen, as set forth in 302.212 on the following conditions:

1. The term of this provisional variance shall commence when the Petitioner, City of Marion, removes its air diffusers within their aeration tanks, and it shall expire fourteen (14) days after the date the Petitioner returns Basin No. I to service, or after 45 days have elapsed, whichever comes first;
2. During the term of this provisional variance, the effluent from the Petitioner's treatment plant shall not exceed concentrations of 15 mg/l  $\text{NH}_3$  (daily maximum concentration or 25 mg/l CBOD<sub>5</sub> or 30 mg/l TSS (each on a monthly average concentration limits);
3. The Petitioner shall notify Dwight Hill of the Agency's Marion Regional office by telephone, at 618/997-4392, when it removes Basin No. I unit from service and when it returns the unit 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 work as expeditiously as possible and 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 92-97, June 26, 1992.

\_\_\_\_\_  
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 26<sup>th</sup> day of June, 1992, by a vote of 4-0.

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