

ILLINOIS POLLUTION CONTROL BOARD
September 12, 1991

CITY OF FAIRBURY,)	
)	
Petitioner,)	
)	
v.)	PCB 91-169
)	(Provisional Variance)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J.C. Marlin):

This matter comes before the Board on receipt of an Agency Recommendation dated September 11, 1991. The recommendation refers to a request from Petitioner, City of Fairbury, for a provisional variance from the ammonia nitrogen (NH₃), biochemical oxygen demand (BOD₅), and suspended solids (TSS) effluent requirements, as set forth in 35 Ill. Adm. Code 304.120, 304.122, and 304.141(a), for the period from September 10, 1991, and continuing until the Petitioner returns its wastewater treatment facilities to service, but not for longer than 45 days.

The Board granted the City of Fairbury a previous provisional variance in PCB 91-114 on July 11, 1991.

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 35 Ill. Adm. Code Ill. 304.120, 304.122, and 304.141(a), on the following conditions:

1. The term of this provisional variance shall commence on September 10, 1991, and it shall expire on the date the Petitioner returns its wastewater treatment plant 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 20 mg/l NH₃ (daily maximum concentration or 45 mg/l BOD₅ or 45 mg/l TSS (each on a monthly average concentration basis));
3. The Petitioner shall notify Steve Baldwin of the Agency's Champaign Regional office by telephone, at 217-333-8361, when it returns wastewater treatment facilities 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: Mark T. Books

4. The Petitioner shall return to service as soon as possible and operate its plant during the term of this provisional variance in a manner that assures the best treatment 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 91-169, September 12, 1991.

Petitioner

Authorized Agent

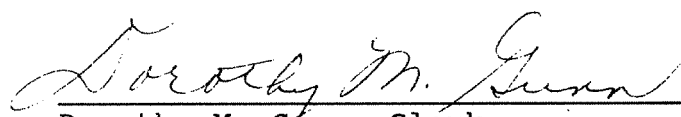
Title

Date

IT IS SO ORDERED.

J.D. Dumelle concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control
Board, do hereby certify that the above Order was adopted on the
12th day of September, 1991, by a vote of
7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board