

ILLINOIS POLLUTION CONTROL BOARD
October 3, 1996

CATERPILLAR INCORPORATED,)	
MOSSVILLE ENGINE CENTER,)	
)	
Petitioner,)	
)	
v.)	PCB 97-60
)	(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)), Caterpillar Incorporated (Caterpillar) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to Caterpillar. Caterpillar's request for a provisional variance and the Agency's notification of recommendation was filed with the Board on October 1, 1996. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing.

The Agency, by and through its Director, Mary A. Gade, seeks a provisional variance for Caterpillar in order to allow it to continue operating while tests are conducted to determine the effectiveness of ultraviolet radiation as a means of disinfection at its sanitary wastewater treatment facility.

Specifically, the Agency recommends that we grant Caterpillar a 45-day provisional variance for its Peoria County facility from the fecal coliform effluent requirements, as set forth in 35 Ill. Adm. Code 302.209 and 35 Ill. Adm. Code 304.141(a). This variance period shall begin on October 7, 1996 when chlorinating has ceased, and continue until the date necessary to determine the proper sizing of the ultraviolet unit, but not longer than 45 days.

The Agency recommends that the Board grant the requested provisional variance with specified conditions and agrees that the repairs are necessary. The Agency states that the requested provisional variance would have minimal environmental impact on the receiving stream and is unaware of any public water supplies that the requested provisional variance would adversely impact. According to the Agency, no federal laws would be violated if the provisional variance is granted by the Board. The Agency believes 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 that a 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 302.209 and 35 Ill. Adm. Code 304.141(a), on the following conditions:

1. The term of this provisional variance shall commence on October 7, 1996 when chlorinating has ceased, and continue until the date necessary to determine the proper sizing of the ultraviolet unit, but not longer than 45 days.
2. During the term of this provisional variance, Caterpillar's effluent fecal coliform shall not be limited. All other effluent limits in the Caterpillar's NPDES Permit No. IL0001414 shall remain in force and in effect during the variance period.
3. The petitioner shall notify Lyle Ray of the Agency's Peoria Regional office by telephone, at 309/693-5463, when chlorinating has ceased and again when chlorinating has resumed. Petitioner shall confirm this notice in writing within five (5) days, addressed as follows:

Illinois Environmental Protection Agency
 Attention: Erin Rednour
 Division of Water Pollution Control
 Compliance Assurance Section
 2200 Churchill Road
 P.O. Box 19276
 Springfield, Illinois 62794-9276

4. The petitioner shall operate its plant during the term of this provisional variance in a manner that assures the best effluent practicable. Additionally, Caterpillar shall perform the pilot study as expeditiously as possible to minimize the time period that discharge is not chlorinated.

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 ten (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 97-60, October 3, 1996.

Petitioner

Authorized Agent

Title

Date

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the _____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board