

ILLINOIS POLLUTION CONTROL BOARD
September 19, 2002

SEWARD SANITARY DISTRICT,)
)
 Petitioner,)
)
 v.) PCB 03-29
) (Provisional Variance - Water)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

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

On September 17, 2002, the Illinois Environmental Protection Agency (Agency) recommended that the Board grant a 45-day provisional variance to the Seward Sanitary District (District) beginning on September 17, 2002. The provisional variance is requested from the effluent limits for chemical biological oxygen demand (CBOD) and total suspended solids (TSS) stated in the District's National Pollutant Discharge Elimination System (NPDES) permit would allow the District to inspect and repair two potential leaks in one of its lagoon cell dike walls at its facility located in the SW 1/4 of Section 21, T26N R10E in Seward Township, Winnebago County. The Agency states that failure to grant the provisional variance would impose an arbitrary or unreasonable hardship on the District.

Section 35(b) of the Environmental Protection Act (415 ILCS 5/35(b) (2000)) provides:

The Board shall grant provisional variances, only upon notification from the Agency that compliance on a short term basis with any rule or regulation, requirement or order of the Board, or with any permit requirement would impose an arbitrary or unreasonable hardship. Such provisional variances shall be issued within 2 working days of notification from the Agency. 415 ILCS 5/35(b) (2000); *see also* 35 Ill. Adm. Code 104.302.

A provisional variance lasts for no more than 45 days, but the Board can extend the time period up to an additional 45 days on the Agency's recommendation. Provisional variances granted to one person cannot exceed a total of 90 days during any calendar year. 415 ILCS 5/36(c) (2000); 35 Ill. Adm. Code 104.308.

The Board grants the District a provisional variance from its effluent limits stated in its NPDES permit, subject to the following conditions:

1. This variance shall begin on September 17, 2002, and continue for 45 days until November 1, 2002, or until completion of the project, whichever occurs earlier.

- 2. During the 45-day variance period, the District will not exceed a CBOD limit of 50 mg/l and a TSS limit of 80 mg/l.
- 3. The District shall complete the inspection and repair related work on its lagoon system as expeditiously as possible. During the provisional variance period, the District shall operate the facility in such a manner so as to produce the best effluent practicable.
- 4. The District shall continue to monitor and maintain compliance with all other parameters and conditions specified in NPDES permit No. ILG580138.
- 5. The District shall notify Jay Balmer of the Agency by telephone at 217/782-9720 when repairs are complete. Written confirmation shall be sent within five days to the following address:

Illinois Environmental Protection Agency
 Bureau of Water, Compliance Assurance Section
 Attention: Jay Balmer
 1021 North Grand Ave. East
 P.O. Box 19276
 Springfield, Illinois 62794-9276

IT IS SO ORDERED.

If the District chooses to accept this provisional variance, it must execute a Certificate of Acceptance of all terms and conditions of this provisional variance and, within 10 days after the date of the above order, forward the executed certificate to the Agency at the above address. The form of the certificate is as follows:

CERTIFICATE OF ACCEPTANCE

The District accepts and agrees to be bound by all terms and conditions of the Pollution Control Board’s September 19, 2002 order in PCB 03-29.

 Petitioner

 Authorized Agent

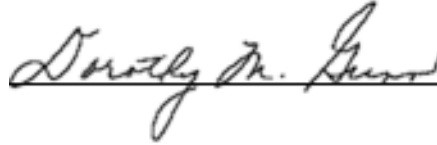
 Title

 Date

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706.

Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 19, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board