

ILLINOIS POLLUTION CONTROL BOARD  
March 20, 2003

CITY OF AUBURN,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-152
	)	(Provisional Variance - Water)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by T.E. Johnson):

On March 18, 2003, the Illinois Environmental Protection Agency (Agency) recommended that the Board grant a 45-day provisional variance to the City of Auburn. The provisional variance from the total suspended solids (TSS) and carbonaceous biochemical oxygen demand (CBOD) requirements of NPDES permit number IL0022403 would allow the City of Auburn to pump wastewater from its lagoon #2 into Sugar Creek. This would facilitate the City of Auburn's inspection and repair of rock filter laterals, intake pumps, and valves at its wastewater treatment facility in Auburn, Sangamon County. The Agency states that failure to grant the provisional variance would impose an arbitrary or unreasonable hardship on the City of Auburn.

Section 35(b) of the Environmental Protection Act (415 ILCS 5/35(b) (2002)) 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) (2002); *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) (2002); 35 Ill. Adm. Code 104.308.

The Board grants the City of Auburn a provisional variance from the CBOD and TSS limitations of NPDES permit number IL0022403, subject to the following conditions:

1. This variance will begin on March 24, 2003 and continue for 45 days or until completion of the project, whichever comes earlier.

2. During the 45-day variance period, the City of Auburn must not exceed a CBOD monthly average limit of 50 mg/L and a TSS monthly average limit of 70 mg/l.
3. The City of Auburn must complete the inspection and repair-related work on its rock filter system as expeditiously as possible. During the provisional variance period, the City of Auburn must operate the facility in such a manner so as to produce the best effluent possible.
4. The City of Auburn must continue to monitor and maintain compliance with all other parameters and conditions specified in NPDES permit number IL0022403. The City of Auburn must conduct daily sampling of the pumping conducted pursuant to this provisional variance and weekly sampling of the effluent from its permitted outfall during the period of the provisional variance.
5. The City of Auburn must notify Jay Balmer or the Illinois EPA by telephone at 217-782-9720 when repairs are complete. Written confirmation must be sent within five days to the following address:

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

6. Within 10 days of the date of this order, before March 30, 2003, the City of Auburn must execute a Certificate of Acceptance and agreement, which must be sent to Jay Balmer at the address indicated above.

IT IS SO ORDERED.

If the City of Auburn 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 City of Auburn accepts and agrees to be bound by all terms and conditions of the Pollution Control Board's March 20, 2003 order in PCB 03-152.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Authorized Agent

Title

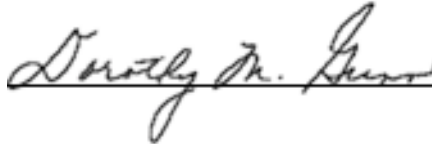
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Date

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.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 20, 2003, 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