

ILLINOIS POLLUTION CONTROL BOARD
March 25, 1993

KERR-MCGEE COAL CORPORATION,)	
)	
Petitioner,)	
)	
v.)	PCB 93-62
)	(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 March 24, 1993. The recommendation refers to a request from Petitioner, Kerr-McGee Coal Corporation, for a provisional variance for its Saline County facility from the biochemical oxygen demand (CBOD₅), and suspended solids (TSS) effluent requirements, as set forth in 35 Ill. Adm. Code 304.141 and 304.120, for the period from when the Petitioner begins to take its packaged treatment plant out of service in order to repair the mechanical sludge rake and to complete rehabilitation work on the plant service, 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 or 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 415 ILCS 5/35 (b) & (c) (1992) (Ill. Rev. Stat. 1991, 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 or unreasonable hardship, the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 302.141 and 302.120, on the following conditions:

1. The term of this provisional variance shall commence when the Petitioner, Kerr-McGee Coal Corporation, initiates the removal of its package domestic wastewater treatment plant from service, and it shall expire four days after the plant is put back into service, or after 45 days have elapsed, whichever comes first;
2. During the term of this provisional variance, Petitioner shall monitor for chemical oxygen demand from outfall 002 daily when discharging. Petitioner shall also continue to monitor for and be in compliance with the other parameters as described in its NPDES permit (IL0061727);
3. The Petitioner shall notify Bill Ryans of the Agency's Marion Regional office by telephone, at 618/997-4392, when it removes its package treatment plant from service and when it returns the plant 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. During this provisional variance, as proposed by Petitioner, Petitioner shall pump the waste from the package treatment plant directly into the sedimentation basin. Petitioner shall also perform the necessary repair work as expeditiously as possible to minimize the period of time the package treatment plant needs to be out of service.
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:

0140-0264

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 93-62, March 25, 1993.

Petitioner

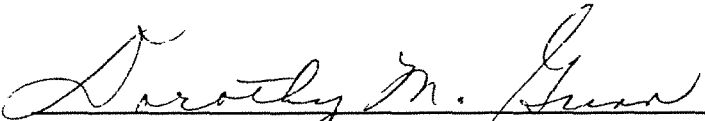
Authorized Agent

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 by the
Board on the 25th day of March, 1993,
by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board