

ILLINOIS POLLUTION CONTROL BOARD
August 11, 1994

CITY OF PEKIN,)	
)	
Petitioner,)	
)	
v.)	PCB 94-218
)	(Provisional Variance)
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)), City of Pekin (Pekin) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Pekin to continue operating during a period of wastewater treatment plant modification. Such request for a provisional variance and the Notification of Recommendation were filed with the Board by the Agency on Wednesday, August 10, 1994. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing.

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), the Illinois Environmental Protection Agency (Agency), by and through its Director, Mary A. Gade, seeks a provisional variance for Pekin in order to allow it to continue operating during a period of wastewater treatment plant modification.

Specifically, the Agency recommends that we grant Pekin a (forty-five) 45 day provisional variance for its Tazewell County facility from the biochemical oxygen demand (CBOD₅), suspended solids (TSS), and fecal coliform effluent requirements, as set forth in 35 Ill. Adm. Code 304.141, 304.120(b), and 304.121 for the period from when the petitioner begins modifications to its wastewater treatment plant, by removing the first secondary clarifier unit from 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.

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 finding 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 304.141, 304.120(b), and 304.121, on the following conditions:

1. The term of this provisional variance shall commence when the petitioner, Pekin, initiates modifications to its wastewater treatment plant, by bypassing its first secondary clarifier unit, and it shall expire on the date the petitioner completes the required maintenance work, or after forty-five (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 40 mg/l CBOD₅ and 100 mg/l TSS monthly average, and will not be subject to a daily maximum fecal coliform limit;
3. The petitioner shall notify Kenneth B. Newman of the Agency's Peoria Regional office by telephone, at (309)693-5463, when it removes its first secondary clarifier unit from service and when it returns the unit to service, and the petitioner shall confirm this notice in writing within five (5) 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: Erin Rednour

4. The petitioner shall return the first secondary clarifier unit to service as soon as possible and operate

its plant during the term of this provisional variance in a manner that assures the best effluent practicable; and

5. The petitioner shall continue to monitor and maintain compliance with all other parameters as addressed in NPDES Permit No. I10034495.

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 94-218 , August 11, 1994.

Petitioner

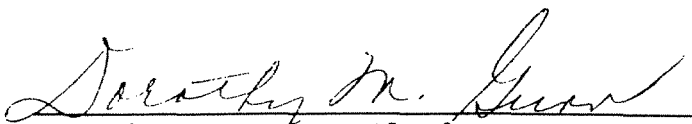
Authorized Agent

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 on the 11th day of August, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board