

ILLINOIS POLLUTION CONTROL BOARD
March 31, 1994

REND LAKE CONSERVANCY)
DISTRICT,)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB 94-103
(Provisional Variance)

ORDER OF THE BOARD (by J. Theodore Meyer):

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), Rend Lake Conservancy District has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Rend Lake Conservancy District to continue operating during a period of wastewater treatment plant modifications. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Wednesday, March 30, 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 Rend Lake Conservancy District in order to allow it to continue operating during a period of wastewater treatment plant modifications.

Specifically, the Agency recommends that we grant Rend Lake Conservancy District a forty-five (45)-day provisional variance for its Franklin County facility from the biochemical oxygen demand (CBOD₅) and suspended solids (SS) effluent requirements as set forth in 35 Ill. Adm. Code 304.120 and 304.141 for the period from when the petitioner begins construction procedures to upgrade its wastewater treatment plant and continuing until the petitioner returns that unit to service, but not for longer than 45 days.¹

¹During the construction period lagoon cell #2 will be removed from service and flows held in lagoon cell #1 will be released into Jordon Creek, a tributary to the Middle Fork of the Big Muddy River.

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 304.120 and 304.141, on the following conditions:

1. The term of this provisional variance shall commence when the petitioner, Rend Lake Conservancy District initiates construction at its wastewater treatment plant and it shall expire on the date the petitioner completes the required construction 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 50 mg/l CBOD₅ and 60 mg/l SS (each on a monthly average, concentration limits);
3. The petitioner shall notify Byron Marks of the Agency's Marion Regional office by telephone, at (618)993-7200, when discharge from lagoon cell #1 begins and when construction work is completed, 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: Mark T. Books

4. The petitioner shall perform the necessary construction and modification work as expeditiously as possible and operate its plant during the term of this provisional variance in a manner that assures the best treatment practicable; and

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 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 94-103, March 31, 1994.

Petitioner

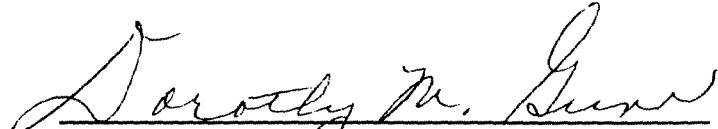
Authorized Agent

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 31st day of March, 1994, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board