

ILLINOIS POLLUTION CONTROL BOARD  
April 6, 1995

CITY OF CRYSTAL LAKE,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 95-120
	)	(Provisional Variance-Water)
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)), the City of Crystal has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow the City of Crystal Lake to continue operating its wastewater treatment plant. The City of Crystal Lake requires a provisional variance to operate while its request for a permit modification is being reviewed by the Agency. Such request for a provisional variance and the Notification of Recommendation were filed with the Board by the Agency on Tuesday, April 4, 1995. 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 the City of Crystal Lake in order to allow it to continue operating its wastewater treatment plant while its request for permit modification is under Agency review.

Specifically, the Agency recommends that we grant the City of Crystal Lake a (forty-five) 45 day provisional variance for its McHenry County facility from the requirements pertaining to barium as set forth in 35 Ill. Adm. Code 304.141 and 304.124, for the period beginning March 22, 1995 and continuing for forty-five (45)-days or until the City of Crystal Lake's modified NPDES permit becomes effective, whichever comes first.

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 City of Crystal Lake a provisional variance from 35 Ill. Adm. Code 306.305, on the following conditions:

1. The variance shall commence upon March 22, 1995 and shall continue for forty-five (45)-days or until the City of Crystal Lake's modified NPDES permit becomes effective, whichever comes first;
2. The City of Crystal Lake shall notify Ahmad Abulaban of the Agency's Maywood Regional office by telephone, at (798)388-7900 should any adverse circumstances arise that could cause public health or environmental concerns. The City of Crystal Lake shall confirm this notice in writing within five (5) days, addressed as follows:

Illinois Environmental Protection Agency  
Bureau of Water  
Wastewater Compliance Assurance Section  
2200 Churchill Road  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Attention: Dan Ray

3. During this provisional variance, the City of Crystal Lake barium effluent limit shall be limited to 4.0 mg/l (monthly average) from outfall 001 during the period of the variance.

The City of Crystal Lake 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 95-120, April 6, 1995.

\_\_\_\_\_  
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  
6<sup>th</sup> day of April, 1995, by a vote of  
7-0.

*Dorothy M. Gunn*  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board