

ILLINOIS POLLUTION CONTROL BOARD
April 21, 1994

VILLAGE OF SWANSEA,)	
)	
Petitioner,)	
)	
v.)	PCB 94-129
)	(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)), the Village of Swansea has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow the Village of Swansea to continue operating during a period of wastewater treatment plant construction. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Wednesday, April 20, 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 Village of Swansea in order to allow it to continue operating during a period of wastewater treatment plant construction.

Specifically, the Agency recommends that we grant the Village of Swansea a forty-five (45)-day provisional variance for its St. Clair County facility from the fecal coliform limit, as set forth in 35 Ill. Adm. Code 302.209(a) and 304.141(a), for the period beginning on May 1, 1994 when the petitioner begins construction on its ultra-violet light channel and continuing not 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 302.209(a) and 304.141(a), on the following conditions:

1. The term of this provisional variance shall commence on May 1, 1994 when the petitioner, Village of Swansea, 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 variance period, fecal coliform limits shall not apply.
3. The petitioner shall operate its plant during the term of this provisional variance in a manner that assures the best effluent practicable; and
4. The petitioner shall notify Eric Merz of the Agency's Collinsville Regional office by telephone, at (618)346-5120, when the ultra-violet light channel becomes operational, 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: Barb Conner

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 94-129, April 21, 1994.

Petitioner

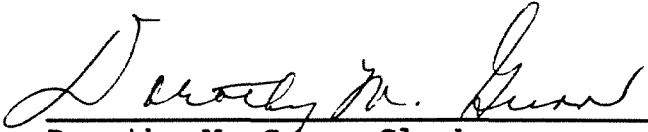
Authorized Agent

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 21st day of April, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board