

ILLINOIS POLLUTION CONTROL BOARD  
September 1, 1994

DEPARTMENT OF THE ARMY, )  
ROCK ISLAND DISTRICT, )  
CORPS OF ENGINEERS, )  
 )  
Petitioner, )  
 )  
v. ) PCB 94-239  
 ) (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)), Department of the Army, Rock Island District, Corps of Engineers (Corps of Engineers) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow the Corps of Engineers to continue operating during a period of rehabilitation work on eleven (11) uplift pressure relief wells. Such request for a provisional variance and the Notification of Recommendation were filed with the Board by the Agency on Wednesday, August 31, 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 Corps of Engineers in order to allow it to continue operating during a period of flood protection system rehabilitation.

Specifically, the Agency recommends that we grant the Corps of Engineers a (forty-five) 45 day provisional variance for its Hancock, Adams, and Pike Counties facilities from the iron, sulfate and manganese effluent requirements, as set forth in 35 Ill. Adm. Code 302.208 and 304.124 for the period from when the petitioner begins rehabilitating its flood protection system, by discharging from the first uplift pressure relief well, and continuing until the petitioner returns the eleven (11) units to service, but not for longer than 45 days.

The areas involved in this variance are:

- a. Hunt Drainage District located in Hancock County, Illinois with two (2) relief wells which discharge into the Mississippi River.

- b. Lima Lake Drainage District located in Adams County, Illinois with two (2) relief wells which discharge into Bear Creek Diversion Channel, which discharge into Canton Chute and in turn discharge into the Mississippi River.
- c. Indian Grove Drainage District located in Adams County, Illinois with five (5) relief wells which discharge into the Mississippi River.
- d. Sny Island Levee and Drainage District located in Pike County, Illinois with two (2) relief wells which discharge into the Mississippi 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 302.208 and 304.124, on the following conditions:

1. The term of this provisional variance shall commence when the petitioner, Corps of Engineers, initiates rehabilitation to its uplift pressure relief wells, by discharging from the first relief well, 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 32 mg/l chloride, 52 mg/l sulfate, 33 mg/l total iron and 2.25 mg/l total manganese daily maximum limits;

3. The petitioner shall notify mark T. Brooks of the Agency's Compliance Assurance Section by telephone, at (217)782-9720, when the work on the relief wells begin in each drainage district and when the work is completed in each drainage district. 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 rehabilitation work on the wells as expeditiously as possible; and

5. The petitioner shall use the least amount of cleaning solution needed to perform the necessary work and shall document the dose rate used on each well.

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 94-239 , September 1, 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  
13<sup>th</sup> day of September, 1994, by a vote of  
6-0.

Dorothy M. Gunn 1/11  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board