

ILLINOIS POLLUTION CONTROL BOARD  
February 3, 1994

SHELL OIL COMPANY, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 94-48  
 ) (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)), Shell Oil Company has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow several of Shell Oil Company's gasoline dispensing operations (service stations) to continue operating even though they did not install operational vapor recovery equipment by November 1, 1993. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Tuesday, February 1, 1994. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing.

Specifically, the Agency recommends that we grant Shell Oil Company a forty-five (45)-day provisional variance for eighty-nine (89) of its facilities located in six (6) counties in the Chicago metropolitan statistical area from the Stage II vapor recovery requirements, as set forth in 35 Ill. Adm. Code 218.586, for the period beginning January 30, 1994, and continuing for forty-five (45) days or until the required vapor recovery equipment is installed, whichever comes first.

This recommendation is essentially that the Board extend a previously-granted forty-five (45)-day provisional variance that expired January 29, 1994. The docket number of the previous provisional variance was PCB 94-11, granted on January 6, 1994. That prior provisional variance was itself an extension of the forty-five (45)-day provisional variance granted on November 4, 1993 in PCB 93-208.<sup>1</sup>

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<sup>1</sup> Section 36(c) of the Act imposes limitations on the Board's ability to extend a provisional variance:

Any provisional variance granted by the Board pursuant to subsection (b) of Section 35 shall be for a period of time not to exceed 45 days. Upon receipt of a recommendation from the Agency to extend this time

The Agency's provisional variance recommendation states that Shell Oil Company has requested a provisional variance on behalf of numerous of its service stations in the Chicago area, located as follows:

<u>County</u>	<u>Number of Stations</u>
Cook	49
DuPage	21
Will	7
Lake	4
McHenry	5
Kane	3

The addresses of those stations are listed in an attachment to the Agency's recommendation as follows (\* denotes potentially incomplete address as received by the Agency):

<u>County</u>	<u>City or Village</u>	<u>Street Address</u>
Cook	BERWYN	7143 W ROOSEVELT ROAD
Cook	BRIDGEVIEW	7901 S ROBERTS RD/79TH
Cook	BROADVIEW	2425 W ROOSEVELT RD
Cook	BURBANK	7900 S CICERO AVE
Cook	CHICAGO	1400 W FULLERTON/SOUTH*
Cook	CHICAGO	215-25 W 31ST ST/WELLS
Cook	CHICAGO	801 W. ADDISON
Cook	CHICAGO	801 W GARFIELD/HALSTED
Cook	CHICAGO	6401 N. RIDGE/DEVON
Cook	CHICAGO	130 W. NORTH/LASALLE
Cook	CHICAGO	5201 N. WESTERN/FOSTER
Cook	CHICAGO	3201 W 26TH ST/KEDZIE
Cook	CHICAGO	30 W. ONTARIO/DEARBORN
Cook	CHICAGO	4401 N. CICERO/MONTROS*
Cook	CHICAGO	11100 S CORLISS/I-94
Cook	CHICAGO	1160 W. DIVERSEY/RACIN*
Cook	CHICAGO	505 N. ASHLAND/GRAND
Cook	CHICAGO	2941 E 83RD/COMMERICAL
Cook	CHICAGO	5701 N BROADWAY/HOLLYW*
Cook	CHICAGO	4002 W. CHGO/PULASKI
Cook	CHICAGO	2401 W. ROOSEVELT/WEST*

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period, the Board shall grant up to an additional 45 days. The provisional variances granted to any one person shall not exceed a total of 90 days during any calendar year.

Since the variance granted in PCB 94-11 expired January 29, 1994, and fewer than ninety (90) days elapsed in this calendar year, the Board interprets Section 36(c) as allowing Shell Oil Company the Agency-recommended forty-five (45)-day extension.

Cook	COUNTRYSIDE	6101 S LA GRANGE RD
Cook	DOLTON	1445 E SIBLEY/MICHIGAN
Cook	LINCOLNWOOD	7201 N. CICERO/TOUHY
Cook	LINCOLNWOOD	6400 LINCOLN/DEVON
Cook	MATTESON	4755 VOLMER/CICERO
Cook	NILES	5900 TOUHY/LEHIGH
Cook	PALATINE	1393 E. DUNDEE ROAD
Cook	SCHAUMBURG	575 S. ROSELLE ROAD
Cook	SCHAUMBURG	517 MALL/HIGGINS
Cook	SKOKIE	5025 OLD ORCHARD ROAD
Cook	WESTCHESTER	10200 W ROOSEVELT RD
Cook	WILMETTE	399 RIDGE/WILMETTE
Cook	HOFFMAN ESTATES	2 E. HIGGINS
Cook	OAK FOREST	16702 S CICERO AVE
Cook	RIVER FOREST	7201 W. NORTH/HARLEM
Cook	LA GRANGE	6701 JOLIET RD
Cook	MORTON GROVE	6941 W. DEMPSTER/WAUKE*
Cook	MORTON GROVE	5600 DEMPSTER
Cook	PROSPECT HTS	2 N. ELMHURST/CP MCDON
Cook	OAK LAWN	10601 S CICERO AVE.*
Cook	EVERGREEN PARK	2635 W. 87TH @ TALMAN
Cook	FOREST PARK	7201 W. MADISON
Cook	HANOVER PARK	1507 W IRVING PK
Cook	OAK PARK	1 W. HARRISON
Cook	PALOS PARK	13056 S LA GRANGE RD
Cook	MOUNT PROSPECT	820 N. RIVER/EUCLID
Cook	MOUNT PROSPECT	927 S. BUSSE/GOLF
Cook	MOUNT PROSPECT	798 S ELMHURST/ALGONQ*
DuPage	ADDISON	500 E. LAKE
DuPage	BENSENVILLE	4 W. IRVING PARK/YORK
DuPage	BLOOMINGDALE	201 E. LAKE
DuPage	DARIEN	8226 S CASS / I-55
DuPage	ELMHURST	103 W. 3RD/YORK
DuPage	ELMHURST	301 W. BUTTERFIELD/SPR*
DuPage	HINSDALE	210 E OGDEN/YORK
DuPage	LISLE	4300 LINCOLN/WARRENVIL*
DuPage	LOMBARD	18 W 622 ROOSEVELT/MEYE*
DuPage	NAPERVILLE	1295 S RICKERT/75TH
DuPage	ROSELLE	4 IRVING PARK/ROSELLE
DuPage	WHEATON	NEC NAPERVILLE/EAST LO*
DuPage	WHEATON	100 W. GENEVA/MAIN
DuPage	WOODRIDGE	7500 LEMONT RD/75TH ST
DuPage	OAK BROOK	2210 W 22ND ST
DuPage	WOOD DALE	110 E IRVING PK/WOOD D*
DuPage	DOWNERS GROVE	2212-50 OGDEN/BELMONT
DuPage	DOWNERS GROVE	10 S 281 LEMONT RD
DuPage	VILLA PARK	401 E. ST CHARLES RD
DuPage	VILLA PARK	17 W 621 ROOSEVELT/MIDW*
DuPage	CAROL STREAM	106 W NORTH/GARY
Kane	CARPENTERSVILLE	25TH/HAZARD
Kane	GENEVA	1491 E STATE ST @ KIRK
Kane	WEST DUNDEE	RT 31(8TH ST)/RT 72*

Lake	BARRINGTON	100 NW HWY/MAIN
Lake	DEERFIELD	2 WAUKEGAN/COUNTYLINE
Lake	HIGHLAND PARK	10 SKOKIE HWY/CNTY LIN*
Lake	MUNDELEIN	15809 N. MIDLOTHIAN
McHenry	ALGONQUIN	2 N. MAIN(RT 31)/RT 62
McHenry	CRYSTAL LAKE	681 TERRA COTTA
McHenry	CRYSTAL LAKE	220 E. VIRGINIA/KEITH
McHenry	FOX RIVER GROVE	848 NORTHWEST HWY
McHenry	MCHENRY	2022 W. ROUTE 120
Will	BOLINGBROOK	255 N NAPERVILLE/BOUGH*
Will	CRETE	1400 E STEGER RD./I-39
Will	FRANKFORT	7600 W RTE 30(GC)
Will	JOLIET	4230 W JEFFERSON(US 52)
Will	JOLIET	3021 PLAINFIELD RD
Will	LOCKPORT	15861 BELL RD.(GC)
Will	LOCKPORT	12810 143RD @ BELL

Upon receipt of the request, the Agency issued its recommendation, notifying the Board that the failure to grant the requested forty-five (45)-day provisional variance would impose an arbitrary or unreasonable hardship on Petitioner. The Agency recommendation states that installation of Stage II vapor recovery equipment at the Shell Oil Company facilities is not possible by the November 1, 1993 deadline for compliance because vapor recovery equipment for Dresser Wayne gasoline dispensers was not available before the compliance deadline due to problems with premature nozzle shut-off and nozzle leakage.

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) & (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 notifying the Board that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants petitioner a provisional variance from 35 Ill. Adm. Code 218.586, subject to the following conditions:

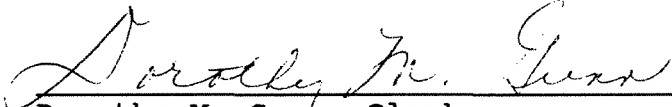
1. The term of this provisional variance shall commence on January 30, 1994, and it shall expire on the date the Petitioner completes the required installation of vacuum assist Stage II vapor recovery equipment, or after forty-five (45) days have elapsed, whichever comes first;
2. The petitioner shall notify the Agency of the

installation of the vapor recovery equipment, by sending notification addressed as follows:

Mr. Terry Sweitzer, P.E.  
Manager, Air Monitoring Section  
Illinois Environmental Protection Agency  
Division of Air Pollution Control  
P.O. Box 19276  
Springfield, Illinois 62794-9276

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 3rd day of February, 1994, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board