

ILLINOIS POLLUTION CONTROL BOARD

December 3, 1992

CITY OF SHELBYVILLE,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 92-195
	)	(Provisional Variance)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by J.C. Marlin):

This matter comes before the Board on receipt of an Agency Recommendation dated December 2, 1992. The recommendation refers to a request from Petitioner, City of Shelbyville, for a provisional variance for its Shelby County facility from the requirements for discharge only in accordance with a valid NPDES permit, as set forth in 35 Ill. Adm. Code 309.102, for the period from when the Petitioner begins removing its force main to outfall 001 from service, and continuing until the Petitioner returns that unit to service, but not for 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.

The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. See Ill. Rev. Stat. 1991, ch. 111½, pars. 1035(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 finding 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 309.102, on the following conditions:

0137-0595

1. The term of this provisional variance shall commence when the Petitioner, City of Shelbyville, removes its force main to outfall 001 from service, and it shall expire on the date the Petitioner returns its force main to service, or after 45 days have elapsed, whichever comes first;

2. During the term of this provisional variance, the effluent from the Petitioner's outfall 002 shall not exceed concentrations of 4.0 mg/l NH_3 or 10 mg/l BOD_5 or 12 mg/l TSS (each on a monthly average basis);

3. The Petitioner shall notify Joe Koronkowski of the Agency's Champaign Regional office by telephone, at 217-333-8361, when it removes its force main to outfall 001 from service and when it returns the unit to service, and the Petitioner shall confirm this notice in writing within five 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 maintenance 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 effluent practicable

5. During the term of this provisional variance, the Petitioner shall monitor the effluent from its outfall 002 for its effluent parameter limits as required by its NPDES permit and maintain compliance with its current limits for pH and phosphorus; and

6. 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 10 days of the date of this Order of the Board, and the Certificate of Acceptance shall take the following form:

0137-0596

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 92-195, December 3, 1992.

Petitioner

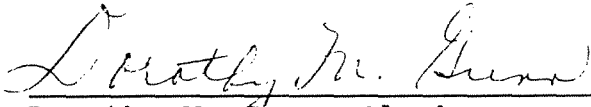
Authorized Agent

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 by the
Board on the 3rd day of December, 1992,
by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

0137-0597