

ILLINOIS POLLUTION CONTROL BOARD  
September 12, 1991

ACME STEEL CO.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 91-167
	)	(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 September 11, 1991. The recommendation refers to a request from Petitioner, Acme Steel Co., for a provisional variance from the total residual halogen (TRH) effluent requirements, as set forth in 35 Ill. Adm. Code 302.208(d) and 304.141(b), for the period from when the Petitioner begins its mussel eradication program and continuing until the Petitioner receives a modified permit, 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 and 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. 1989, 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 and unreasonable hardship, the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 302.208(d) and 304.141(d), on the following conditions:

1. The term of this provisional variance shall commence when the Petitioner, Acme Steel Co., initiates its wastewater treatment plant, by commencing its mussel eradication program, and it shall expire on the date the Petitioner receives a modified permit in final form, or after 45 days have elapsed, whichever comes first;

2. The Petitioner shall notify Enoch Mensah of the Agency's Maywood Regional office by telephone, at 708-531-5900, when it begins its mussel eradication program, 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: Dan Ray

3. The Petitioner shall monitor outfalls 001, 002, 003, and 004 once each day (grab samples) for TRH, and sample for other effluent limits at the frequency noted in NPDES permit IL0002101; and

4. The Petitioner shall meet a daily maximum limit of 0.05 mg/l TRH (concentration limit) at each outfall; and

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 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 91-167, September 12, 1991.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Authorized Agent

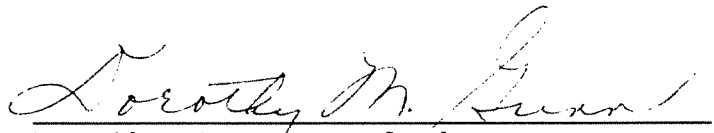
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

IT IS SO ORDERED.

J.D. Dumelle concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control  
Board, do hereby certify that the above Order was adopted on the  
12<sup>th</sup> day of September, 1991, by a vote of  
7-0.

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