

ILLINOIS POLLUTION CONTROL BOARD

September 5, 1996

VILLAGE OF FAYETTEVILLE,)	
)	
Petitioner,)	
)	PCB 97-45
v.)	(Provisional Variance - Water)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Theodore Meyer):

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), the Village of Ashland has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance from Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), to the Village of Fayetteville. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Tuesday, September 3, 1996. 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 the Village of Fayetteville in order to allow it to continue operating during a period of wastewater treatment plant repairs.

Specifically, the Agency recommends that we grant the Village of Fayetteville a forty-five (45) day provisional variance for its St. Clair County facility from the biochemical oxygen demand and total suspended solids effluent requirements, as set forth in 35 Ill. Adm. Code 302.120(a) and 35 Ill. Adm. Code 304.141(a). This variance period shall begin on the date when the petitioner begins repairs to its wastewater treatment plant, and continue until the repairs to the wastewater treatment plant are complete, 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 believes 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 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 302.120(a) and 35 Ill. Adm. Code 304.141(a), on the following conditions:

1. The term of this provisional variance shall commence on a date during 1996 when the lagoon and rock filter are removed from service and shall continue until the repairs to the wastewater treatment plant are complete, or after forty-five (45) days have elapsed, whichever comes first;
2. During the term of this provisional variance, the Village of Fayetteville treatment plant shall meet a monthly average concentration of 77 mg/1 for total suspended solids and 50 mg/1 for biochemical oxygen demand. All other effluent limits in the Village of Fayetteville's NPDES Permit No. IL0020893 shall remain in force and in effect during the variance period;
3. The petitioner shall notify Eric Merz of the Agency's Collinsville Regional office by telephone, at 618/346-5120, when the lagoon and rock filter are removed from service and again when the units are returned to service. 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 Books

5. The petitioner shall perform the necessary repairs as expeditiously as possible and operate its plant during the term of this provisional variance in a manner that assures the best effluent practicable; and

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 97-45, September 5, 1996.

Petitioner

Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that
the above order was adopted on the _____ day of _____, 1996, by a vote of
_____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board