

ILLINOIS POLLUTION CONTROL BOARD
August 26, 2021

CTI DEVELOPMENT, LLC,)	
)	
Petitioner,)	
)	
v.)	PCB 21-110
)	(Variance - Land)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.M. Santos):

On July 29, 2021, CTI Development, LLC (CTI) filed a motion for leave to file an amended petition for a variance (Mot.) for the Wood River Power Station in Alton, Madison County. CTI requests additional time under Section 22.59(e) of the Environmental Protection Act to obtain a construction permit to close the West Ash Complex at the Station. 415 ILCS 5/22.59(e) (2018). For the reasons below, the Board grants the motion and accepts the amended petition (Pet.).

ABBREVIATED PROCEDURAL HISTORY

On May 11, 2021, CTI filed its original petition. CTI requested relief from the requirement to obtain a construction permit for closure at 35 Ill. Adm. Code 845.200(a)(4); *see* 415 ILCS 5/22.59(e) (2020).

On June 3, 2021, CTI filed a certificate of publication of notice of filing its petition in *The Telegraph* of Madison County on May 25, 2021. *See* 415 ILCS 5/37(a) (2020); 35 Ill. Adm. Code 104.214(d).

On June 7, 2021, the parties filed an agreed motion to extend the deadlines for the Illinois Environmental Protection Agency (IEPA) to file a motion to dismiss and a recommendation (Mot. Ext.). The motion requested an extension of 30 days after the Board or hearing officer rules on a motion by CTI to file an amended petition. The hearing officer granted the agreed motion on June 15, 2021.

Also on June 7, 2021, CTI waived its statutory 120-day decision deadline to March 7, 2022. *See* 415 ILCS 5/38(a) (2022); 35 Ill. Adm. Code 104.232(a).

On June 17, 2012, the Board found that CTI had provided timely publication of notice that meets the content requirements of 35 Ill. Adm. Code 104.214(d) and accepted CTI's petition for hearing.

MOTION FOR LEAVE

Following discussions with IEPA, CTI agreed to file an amended petition providing additional authority for the relief it seeks. Mot. at 2. CTI argues that the relief requested in its amended petition does not differ from the relief it originally requested, “except to revise the term of the variance and include a request for relief from the identical regulatory requirement at 35 Ill. Adm. Code 845.720(b)(2).” *Id.*

CTI cites 35 Ill. Adm. Code 104.226(a), which provides that a petitioner for a variance may amend its petition before the hearing closes by filing a motion under 35 Ill. Adm. Code 101.Subpart E (Motions). CTI requests leave to file an amended petition, which it attached to the motion as Exhibit 1. Mot. at 2. CTI reports that it conferred with counsel for IEPA, who indicated that IEPA does not object to granting CTI’s motion. *Id.* The Board grants CTI’s unopposed motion for leave and accepts its amended petition.

SUMMARY OF PROCEDURAL REQUIREMENTS

CTI requests a hearing on its petition. Pet. at 22; *see* 35 Ill. Adm. Code 104.204(n). The Board’s hearing officer is responsible, as appropriate, for guiding parties through status conferences and hearing officer orders to promptly resolve this matter. The hearing will be scheduled and completed in a timely manner consistent with the statutory decision deadline. As noted above under “Abbreviated Procedural History,” CTI has waived its decision deadline to March 7, 2022.

In their agreed motion for an extension, the parties noted IEPA’s 30-day deadline to file a motion to dismiss and 45-day deadline to file a recommendation. Mot. Ext. at 2, citing 35 Ill. Adm. Code 101.506, 104.216(b). The agreed motion requested that “these deadlines be extended to 30 days after the date that the Hearing Officer or the Board enters an order ruling on CTI’s motion to file an Amended Petition.” Mot. Ext. at 1.

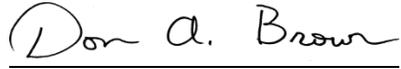
Accordingly, IEPA’s deadline to file a motion to dismiss and to file its recommendation on the amended petition is Monday, September 27, 2021, the first business day following the 30th day after the date of this order. Within 14 days after service of IEPA’s recommendation, CTI may file a response to it or an amended petition. 35 Ill. Adm. Code 104.220.

CONCLUSION

The Board grants CTI’s motion for leave to file an amended petition and accepts the amended petition.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 26, 2021, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk
Illinois Pollution Control Board