

ILLINOIS POLLUTION CONTROL BOARD
August 5, 1999

KINCAID GENERATION, L.L.C.,)
)
 Petitioner,)
)
 v.) PCB 00-20
) (Provisional Variance - Water)
 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)
)

ORDER OF THE BOARD (by C.A. Manning):

On August 4, 1999, the Illinois Environmental Protection Agency (Agency) filed a request for a provisional variance and notification of recommendation. The Agency recommends that the Board grant Kincaid Generation, L.L.C. (petitioner) located in Christian County, Illinois, a 45-day provisional variance. The provisional variance would allow petitioner relief from its current thermal discharge limitations for its electrical generating station thereby allowing petitioner additional hours in which the plant's discharge may be in the temperature band over 99 degrees Fahrenheit and under 111 degrees Fahrenheit, for the period beginning when the current permitted 613 hours for discharge expire. In making its recommendation, the Agency states that failure to grant the requested provisional variance will result in an arbitrary or unreasonable hardship.

The Board grants petitioner a provisional variance from: (1) 35 Ill. Adm. Code 303.502 and 304.141(a) and (c); and (2) petitioner's National Pollutant Discharge Elimination System (NPDES) Permit No. IL0002241. The Board is required, in a provisional variance, to adopt a formal order, assure formal maintenance of the record, assure the enforceability of the variance, and provide notification of the action by press release. Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b) (1998)), the Board must issue the provisional variance within two days of the filing.

The Board grants the provisional variance for the period beginning when the currently authorized 613 excursion hours over 99 degrees Fahrenheit have been used, continuing for 45 days, subject to the following conditions:

1. The term of this provisional variance shall commence upon the date during 1999 that petitioner completes use of the presently allowed 613 hours for discharge over 99 degrees Fahrenheit, as established by petitioner's current NPDES Permit No. IL0002241, and shall continue for 45 days. At no time shall petitioner's effluent temperature exceed 111 degrees Fahrenheit.
2. During the term of this provisional variance, whenever discharge temperatures exceed 99 degrees Fahrenheit, the Kincaid Generation Station shall be operated in such a manner as to allow only essential electrical production needs to be maintained.
3. Petitioner shall notify Tim Zook of the Agency's Springfield regional office at the start of the usage and completion of usage by telephone at 217/786-6892. Petitioner shall confirm this notice in writing within five days to the address noted in paragraph 4 below. Petitioner shall also continue to meet the additional effluent limits as specified in its NPDES Permit No. IL002241; and
4. During the term of this provisional variance, petitioner shall document environmental conditions. Intake and discharge temperatures will be continuously monitored. Also, visual inspection of the intake and discharge areas shall be performed by station personnel at least three times per day during the variance period to assure that no significant fish mortalities result. A

written summary of this data shall be submitted to the Agency within 30 days after the variance period is completed. This information shall be sent to the following address:

Illinois Environmental Protection Agency
Bureau of Water, Compliance Assurance Section #19
Attention: Susan Davison
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

5. Petitioner shall operate the facility in such a manner so as to produce the best effluent practicable.

Petitioner shall sign a certificate of acceptance of this provisional variance and forward that certificate to the Agency at the same address listed in the condition 4 above within ten days of the date of this order. The certification 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 00-20 dated August 5, 1999.

Petitioner

Authorized Agent

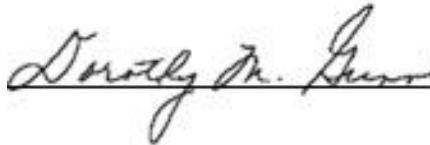
Title

Date

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 5th day of August 1999 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board