

ILLINOIS POLLUTION CONTROL BOARD
October 12, 1984

IN THE MATTER OF:)
)
PROPOSAL OF THE ILLINOIS POWER) R83-11
COMPANY FOR A SITE-SPECIFIC)
EFFLUENT RULE CHANGE (PROPOSED)
AMENDMENT TO ILL. ADM. CODE,)
TITLE 35, PART 304, SUBPART B))

PROPOSED RULE. SECOND NOTICE.

PROPOSED OPINION AND ORDER OF THE BOARD (by B. Forcade):

On April 27, 1984, the Board proposed to add a new §304.209 to Subpart B of Part 304 of Title 35 of the Illinois Administrative Code. This new section would provide site-specific relief to Illinois Power Company ("IPC") for their Wood River Station. First notice of this proposal was published at 8 Ill. Reg. 8116, on June 8, 1984. The first notice comment period expired on July 23, 1984. Under the rule proposed at first notice, the applicable total suspended solids (TSS) effluent limitations for the facility's ash pond system effluent would be 30 mg/l as an average of daily values for thirty consecutive days and 100 mg/l as a daily maximum. Comments were received, during the first notice period, from the Illinois Environmental Protection Agency ("Agency") and from IPC. The Administrative Code Unit submitted a comment on June 11, 1984, concerning Illinois Register first notice format.

The Agency, in its comment, agrees that IPC is entitled to site-specific relief. The Agency, however, disagrees as to the degree of relief that should be granted. The Agency believes that the proposed 100 mg/l daily maximum is less stringent than the levels of treatment that have been shown to be achievable. Three years of data indicates that the system can consistently achieve effluent under 50 mg/l. The Agency believes this demonstrated ability should be the basis for the site-specific rule.

IPC, in its comment, argues that the ash pond treatment system is a dynamic process that is influenced by many factors, including factors not within IPC's control. Thus, IPC contends, the proposed daily maximum of 100 mg/l provides a reasonably achievable limitation that will provide relief over the life of the system and latitude during periods of uncontrollable fluctuation.

The Board finds that the 50 mg/l daily maximum limitation is the more appropriate standard and is better supported in the record. Data submitted at hearing by IPC clearly shows the system's performance capability since construction was completed in May of 1982 (Petitioner's Exhibit 9). Effluent has not exceeded 50 mg/l for three years. In support of the 100 mg/l standard, IPC has argued that it is more likely that the 50 mg/l standard will

be violated than the 100 mg/l standard (R. 146). While this is most certainly a true statement, it is also likely that the system will continue to achieve TSS concentrations below 50 mg/l. Site-specific relief here cannot be based on abstract and unsupported statements regarding "probabilities" where the data clearly supports another conclusion.

IPC testified that it is probable that as the ash lagoon system fills over time, TSS concentrations will increase (R. 136). IPC, however, also testified that these future concentrations are presently unquantifiable. Because of this uncertainty and because of the ten to twenty year life expectancy of the lagoon system, the Board is unable to fashion a TSS limitation that will account for potential changes in the lagoon system's efficiency in the distant future. At present, there is no support in the record for any limitation other than 50 mg/l. IPC may petition the Board for a variance from the proposed rule or propose an amendment to the rule if the performance of the ash lagoon system changes significantly in the future. While site-specific rules are intended to provide long-term relief, there are limits to the Board's ability to do so where future conditions cannot be predicted. A more important factor, when creating site-specific rules, is to base them on system capabilities and limitations as reflected by the available data. Today's rule reflects this principle.

ORDER

The Board directs that second notice of the following rule be submitted to the Joint Committee on Administrative Rules:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 304
SITE-SPECIFIC RULES AND EXCEPTIONS
NOT OF GENERAL APPLICABILITY

Section 304.209 Wood River Station Total Suspended Solid Discharges

The limitation on the discharge of Total Suspended Solids contained in Section 304.124a) shall not apply to the discharge from the ash pond system of Illinois Power Company's Wood River Station, located in East Alton, Illinois. Instead, the concentration of Total Suspended Solids shall not exceed 30 mg/l as an average of daily values for thirty (30) consecutive days and shall not exceed 50 mg/l as a maximum for any one (1) day.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 12th day of October, 1984 by a vote of 6-0.

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