

ILLINOIS POLLUTION CONTROL BOARD  
June 19, 2003

DYNEGY MIDWEST GENERATION, INC., )  
(BALDWIN POWER STATION), )  
 )  
Petitioner, )  
 )  
v. ) PCB 03-234  
 ) (Provisional Variance - Water)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by T.E. Johnson):

On June 18, 2003, the Illinois Environmental Protection Agency (Agency) recommended that the Board grant a 45-day provisional variance to Dynegy Midwest Generation, Inc. (Dynegy). The provisional variance from 35 Ill. Adm. Code 304.141(a) and the effluent limits in National Pollutant Discharge Elimination System (NPDES) Permit No. IL000004 as they apply to total suspended solids for Outfall 001 would allow Dynegy to dredge the secondary cell of its ash pond wastewater treatment system at its coal-fired generating station located near Baldwin in St. Clair and Randolph Counties. The Agency states that failure to grant the provisional variance would impose an arbitrary or unreasonable hardship on Dynegy.

Section 35(b) of the Environmental Protection Act (415 ILCS 5/35(b) (2002)) provides:

The Board shall grant provisional variances, only upon notification from the Agency that compliance on a short-term basis with any rule or regulation, requirement or order of the Board, or with any permit requirement would impose an arbitrary or unreasonable hardship. Such provisional variances shall be issued within two working days of notification from the Agency. 415 ILCS 5/35(b) (2002); *see also* 35 Ill. Adm. Code 104.302.

A provisional variance lasts for no more than 45 days, but the Board can extend the time period up to an additional 45 days on the Agency's recommendation. Provisional variances granted to one person cannot exceed a total of 90 days during any calendar year. 415 ILCS 5/36(c) (2002); 35 Ill. Adm. Code 104.308.

The Board grants Dynegy a provisional variance from 35 Ill. Adm. Code 304.141(a) and the effluent limits in NPDES Permit No. IL000004 as they apply to total suspended solids for Outfall 001, subject to the following conditions:

1. This variance will begin on June 16, 2003, and continue for forty-five (45) days from that date or until completion of the project, whichever occurs earlier.

2. During the variance period, Dynegy must meet the monthly average effluent concentration limits of 50 mg/l for total suspended solids.
3. Dynegy must complete the dredging and repair related work on the secondary cell of its ash pond system as expeditiously as possible. During the provisional variance period, Dynegy must operate the facility in such a manner so as to produce the best effluent possible.
4. Dynegy must continue to monitor and maintain compliance with all other parameters and conditions specified in NPDES Permit No. IL0022403.
5. Dynegy must notify Barb Conner of the Illinois Environmental Protection Agency by telephone at (217) 782-9720 when repairs on the wastewater treatment system are completed. Written confirmation must be sent within five (5) days to the following address:

Illinois Environmental Protection Agency  
Bureau of Water, Compliance Assurance  
1021 North Grand Ave., East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
Attn: Barb Conner

6. Within ten (10) days of the date of the Board's order, Dynegy must execute a Certificate of Acceptance and agreement that must be sent to Barb Conner at the address indicated above.

IT IS SO ORDERED.

If Dynegy chooses to accept this provisional variance, it must execute a Certificate of Acceptance of all terms and conditions of this provisional variance and, within ten days after the date of the above order, forward the executed certificate to the Agency at the above address. The form of the certificate is as follows:

CERTIFICATE OF ACCEPTANCE

Dynegy Midwest Generation, Inc. (Baldwin Power Station) accepts and agrees to be bound by all terms and conditions of the Pollution Control Board's June 19, 2003 order in PCB 03-234.

\_\_\_\_\_  
Petitioner

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

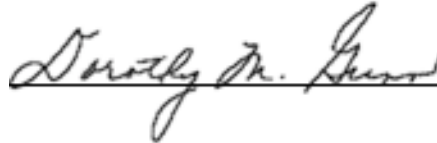
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Title

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Date

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 19, 2003, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board