

ILLINOIS POLLUTION CONTROL BOARD
June 13, 1985

ELECTRIC ENERGY, INC.,)
)
 Petitioner,)
)
 v.) PCB 85-14
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

INTERIM ORDER OF THE BOARD (by J. Anderson):

This permit appeal was filed January 28, 1985, challenging conditions of NPDES Permit NO. IL0004171 concerning Electric Energy's (Electric) Outfall 010. The challenged conditions involve a new pH limit and new iron discharge limits and sampling requirements, and their January 30, 1985, effective date.

Hearing was held on June 4, 1985, at which the parties proposed a stipulated settlement of this action which contains a schedule for construction of a modified system. Also introduced at hearing as Joint Exhibit No. 1 was a draft NPDES permit the Agency would propose to issue in the event the Board responds favorably to their request that the Board "enter an Order binding the Parties to the terms of this Stipulation" (Stip., par. 10).

The Board has had difficulty in dealing with settlements in permit appeal cases which involve Agency issuance of negotiated permits containing conditions for which no record exists "setting out sufficient technical facts and legal assertions to allow the Board to exercise its independent judgment and to make proper findings of fact and conclusions of law." Caterpillar Tractor Co. v. IEPA, PCB 79-180, Interim Order, June 2, 1983, p. 1-2. The Board has not issued Orders incorporating the terms of such stipulations as the Board does in enforcement cases. The Board has issued Orders dismissing the appeal and allowing ratification of a "voidable permit, e.g., Caterpillar, supra, Final Order, July 14, 1982; an Order simply dismissing the appeal, Village of Sauget v. IEPA, PCB 79-87, July 19, 1984; and an Order remanding the permit to the Agency, Caterpillar Tractor Co. v. IEPA, PCB 83-58, March 7, 1985.

The Board directs the parties to examine these cases and the concerns articulated therein, and to file with the Board their preferences as to the disposition of this case. As this case is presently due for decision June 27, such filings must be made on or before June 21; extensions of this deadline will be granted in the event Electric waives the decision deadline.

IT IS SO ORDERED

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 13th day of June, 1985, by a vote of 7-0.

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