

ILLINOIS POLLUTION CONTROL BOARD  
February 17, 1982

ILLINOIS POWER COMPANY            )  
(Hennepin Plant),                )  
                                  )  
                          Petitioner,    )  
                                  )  
                          v.                )     PCB 79-243  
                                  )  
ILLINOIS ENVIRONMENTAL            )  
PROTECTION AGENCY,                )  
                                  )  
                          Respondent.    )

ORDER OF THE BOARD (by D. Anderson):

On February 8, 1982 Illinois Power Company and Illinois Environmental Protection Agency filed a joint motion requesting that the Board enter an Order stating that NPDES Permit No. IL0001554 "provide for and be interpreted in a manner consistent with the following". The proposed Order attached to the motion provides in general that monitoring is to be by free available chlorine with a quarterly concentration curve, that the dead fish condition is to be interpreted as containing certain specified language, and that other conditions are to be generally interpreted consistent with the Board's Orders of October 2 and December 19, 1980 and the Appellate Court decision.

Procedural Rule 502(b)(10) provides as follows:

"The order of the Board entered pursuant to hearing may affirm or reverse the decision of the Agency, in whole or in part, may remand the proceeding to the Agency for the taking of further evidence, or may direct the issuance of the permit in such form as it deems just, based upon the law and the evidence."


The parties have asked the Board to enter an order deeming the permit to read something drastically different from what is written on the face of it. This does not conform with the "affirm, reverse or remand" alternatives of Procedural Rule 502.

The parties contemplate that certain of the permit conditions would depend on interpretation of the pre-hearing agreement,

two Board Orders, an Appellate Court decision, the post-appeal agreement and this Order. It is possible that there is still room for disagreement over the precise language. This should be settled now rather than in the event of a future enforcement action. The Board will therefore remand the permit to the Agency for issuance of a permit modified in accordance with the agreement and referenced materials. If there is further disagreement, a new appeal should be filed under a new docket number.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 17<sup>th</sup> day of February, 1982 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board