

ILLINOIS POLLUTION CONTROL BOARD
December 8, 1977

IN THE MATTER OF:)
)
WATER POLLUTION CONTROL) R77-17
REGULATIONS AMENDMENTS: COOLING)
LAKES)

ORDER OF THE BOARD (by Mr. Goodman):

In conformity with Rules 203 and 204 of Illinois Pollution Control Board Regulations, of Chapter 1: Procedural Rules, and with the applicable provisions of the Administrative Procedure Act, Ill. Rev. Stat., Ch. 111-1/2 §§1001 et seq. (as amended) (1977), the Board hereby proposes the following regulatory amendments to Chapter 3: Water Pollution, for the reasons given in the "Statement of Need", below. Hearings on the proposed amendments and publication thereof are hereby authorized.

PROPOSED AMENDMENTS TO CHAPTER 3: WATER POLLUTION

It is proposed that the definition of "Artificial Cooling Lake" in Rule 104, Definitions, of Chapter 3: Water Pollution, be amended as follows:

Rule 104: "Artificial Cooling Lake" means any manmade lake, reservoir or other impoundment, constructed by damming the flow of a stream, which is used to cool the water discharged from the condensers of a steam-electric generating plant for recirculation in substantial part to the condensers, and includes any such manmade lake, reservoir or other impoundment where flow from the dammed stream and any natural runoff into such manmade lake, reservoir or impoundment from any surrounding, adjacent or upstream watershed constitutes or contributes five percent (5%) or more of the water entering, impounded in, used for cooling purposes in connection with, or discharged by

any means from such manmade lake, reservoir or other impoundment.

STATEMENT OF NEED

On August 14, 1975, the Board entered its final Order in regulatory proceeding R75-2, "Cooling Lakes". The purpose of that Regulation was, in brief, to provide relief from the generally applicable thermal limitations of Chapter 3 for certain cooling water impoundments constructed and/or used by the electric power generation industry, without compromising the environmental quality of protected waters of the state. Among the provisions enacted as part of R75-2 was a new definition of "Artificial Cooling Lake."

On September 29, 1975, the Board adopted an Opinion to accompany the new Regulations. The Board noted in that Opinion that in certain cases, an impoundment of water used for cooling purposes in connection with a steam-electric generating plant might not fall within the classification of "Artificial Cooling Lake." Id., Opinion at 18 PCB 683 and Note 4. That Opinion also reiterated the Board's previous finding that a protected water of the state could not and should not be converted to treatment works. Id., 18 PCB at 684.

However, on November 4, 1977, the Third District Appellate Court entered its Opinion in Environmental Protection Agency v. Central Illinois Light Company, ___ Ill.App.3d ___ (No. 76-376, November 4, 1977), reversing this Board's findings in a similarly entitled case, No. PCB 75-387, 23 PCB 107 (1976), and finding that even where a natural stream has been dammed to form an impoundment, the withdrawal of more than half the impounded waters from some other source will relieve the impoundment of regulation as an "Artificial Cooling Lake." The Board feels that such an interpretation is unfortunate, to the extent that it might allow the conversion of protected waters of the state to treatment works without benefit of any environmental protection.

On that basis -- to assure the environmental quality of existing, protected waters of the state when physically altered for cooling purposes by impoundment, damming, etc. -- we propose the above change in the definition of an "Artificial Cooling Lake." It was not our purpose, in our Opinion September 29, 1975, to provide for such broad exemptions as would seem to be granted by the Third District's Opinion. We make this proposal to correct any errors which might have arisen in our earlier Opinion, and to clarify any possible ambiguity which might exist.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 3rd day of November, 1977 by a vote of 4-0.

Christan L. Moffett (pk)
Christan L. Moffett, Clerk
Illinois Pollution Control Board