

ILLINOIS POLLUTION CONTROL BOARD

January 18, 1996

CITIZENS UTILITIES COMPANY	)	
OF ILLINOIS,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 85-95
	)	(Variance - Water)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

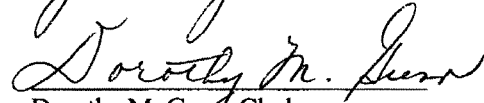
ORDER OF THE BOARD (by C.A. Manning):

This matter is before the Board on a motion to dismiss filed by Citizens Utilities Company of Illinois (Citizens) on January 12, 1996. Citizens states it has reached a settlement agreement with the USEPA in a related federal enforcement action resulting in issuance by the Illinois Environmental Protection Agency (Agency) of a revised NPDES permit covering Citizens West Suburban Waste Water Treatment Plant No. 1 located in the Village of Bolingbrook. Citizens states that the Agency's issuance of the permit renders moot this variance and related-rulemaking, R81-19, (which the Board today is, also dismissing at the request of Citizens).

We note that a formal motion to dismiss is not necessary in this case as the Board granted Citizens permanent variance relief from 35 Ill. Adm. Code Section 302.206, 304.120(c), 304.301 and 304.105 in a final opinion and order of the Board dated January 20, 1994 which closed the docket. However, the Board, pursuant to appellate court remand in *Citizens Utilities Company of Illinois v. Pollution Control Board*, 134 Ill. App. 3d 111 (3rd Dist. 1985) and 213 Ill. App. 3d 864 (3rd Dist. 1991) further provided that Citizens is entitled to automatic extensions of the variance protection until such time as R81-19 is ultimately resolved. We understand that Citizens is now coming before the Board to clarify that no extensions of the variance in PCB 85-95 are being sought and that based on the Agency's issuance of the NPDES permit, variance relief is no longer required. The motion to dismiss is denied as moot.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 18<sup>th</sup> day of January, 1996, by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board