

ILLINOIS POLLUTION CONTROL BOARD  
January 25, 1990

CENTRAL ILLINOIS PUBLIC	)	
SERVICE COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 88-207
	)	(§302.211(f) Thermal
ILLINOIS ENVIRONMENTAL	)	Demonstration)
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

MS. VICKI MASTERMAN, JONES, DAY, REAVIS AND POGUE, APPEARED ON BEHALF OF PETITIONER;

MS. KATHLEEN BASSI, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by M. Nardulli):

This matter comes before the Board upon a petition for hearing pursuant to 35 Ill. Adm. Code 302.211(f) filed December 30, 1989 by Central Illinois Public Service Company ("CIPS"). The Illinois Environmental Protection Agency ("Agency") filed its Recommendation on June 22, 1989 and its Amended Recommendation on June 30, 1989 in support of CIPS' petition. A hearing was held on July 6, 1989.

In December of 1982, CIPS commenced commercial operation of Unit No. 2 at the Newton Power Station in Jasper County. Condenser cooling water generated from that unit is discharged into Newton Lake, an artificial cooling lake constructed by CIPS. Section 302.211(f) requires CIPS to demonstrate that the heated effluent discharged from Unit No. 2 has not caused, and cannot reasonably be expected to cause, significant ecological damage to the receiving water of Newton Lake. Pursuant to 35 Ill. Adm. Code 106.101 and 106.102, CIPS has submitted extensive surveys conducted by CIPS, outside consultant evaluations and Illinois Department of Conservation ("IDOC") studies. (See, Unit No. 2 Section 302.211(f) Report and Ex. 5,6,8,9,12-17.) According to CIPS, this data and testimony given at hearing establish that the heated effluent discharged from Unit No. 2 has not caused, and cannot reasonably be expected to cause, significant ecological damage to the receiving waters of Newton Lake.

<sup>1</sup>Previously, CIPS established its compliance with 35 Ill. Adm. Code 302.211(f) with regard to its operation of Unit No. 1. (CIPS v. IEPA, PCB 83-84 (January 26, 1984)).

In its Amended Recommendation, the Agency states that it supports CIPS' petition and recommends that CIPS be allowed to continue its operation in accordance with the thermal discharge limits imposed upon CIPS' discharges into Newton Lake by prior Board Order of August 21, 1980. (CIPS v. IEPA, PCB 78-271.)<sup>2</sup>

Deborah Bruce, a biologist for CIPS, testified that with the exception of a few brief excursions in 1983 and 1988, CIPS has been in compliance with the thermal limits imposed by the Board. (Tr. 7/6/89 at 19.) Bruce stated that these brief temperature excursions did not result in any adverse effects in Newton Lake. (Id. at 21.) Bruce testified that, in evaluating the fishery in Newton Lake, thirty-two fish species had been collected over twelve years. (Id. at 24.) According to Bruce, the data collected establishes that the species composition and relative abundance of the majority of fish has not changed significantly since 1980. (Id. at 25.) While initial documentation showed a decline in the white crappie population, recent data suggests this decline has been reversed. (Id. at 28.) Furthermore, Bruce testified that the original decline in the white crappie population does not appear to be related to the thermal discharge. (Id. at 29-31.) Bruce opined that operation of Unit No. 2 has not caused, and cannot reasonably be expected to cause, significant ecological damage to the receiving waters. (Id. at 34.)

Mr. Toby Frevert, Manager of the Agency's Planning Section for the Division of Water Pollution Control, testified that, based upon review of the information submitted by CIPS, the Agency finds CIPS' thermal demonstration to be acceptable and in accord with 35 Ill. Adm. Code 302.211(f). (Id. at 40-41.) While the Agency recognizes the decline in the white crappie population, it notes in its Amended Recommendation that such declines have been reported statewide in both "power plant and non-power plant lakes." (Agency Am. Rec. at 2.)

Based upon the foregoing, the Board finds that Unit No. 2 of the Newton Power Plant has not caused, and cannot reasonably be expected to cause, significant ecological damage.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

#### ORDER

Central Illinois Public Service Company has demonstrated

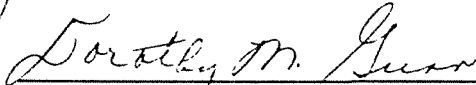
<sup>2</sup>The Board's 1980 Order provides that CIPS' thermal discharge into Newton Lake from its Newton Power Station shall not exceed 102°F as a monthly average and 111°F as a maximum measured at the outside edge of a specified mixing zone. These limits are to be incorporated into any appropriate NPDES discharge permit.

pursuant to 35 Ill. Adm. Code 302.211(f) that discharges from its Newton Power Station Unit No. 2 have not caused, and cannot reasonably be expected to cause, significant ecological damage to the receiving waters.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1985, ch. 111-1/2, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Opinion and Order was adopted on the 25<sup>th</sup> day of January, 1990 by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board