

ILLINOIS POLLUTION CONTROL BOARD
March 3, 1994

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|------------------------|---|------------------------|
| ILLINOIS POWER COMPANY |) | |
| (Baldwin Facility), |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 94-81 |
| |) | (Provisional Variance) |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

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

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), Illinois Power Co. has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Illinois Power Co. to continue operating during dredging operations. Such request for a provisional variance and the Notification of Recommendation was filed with the Board by the Agency on Wednesday, March 2, 1994. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing.

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), the Illinois Environmental Protection Agency (Agency), by and through its Director, Mary A. Gade, seeks a provisional variance for Illinois Power Co. in order to allow it to continue operating during dredging operations.

Specifically, the Agency recommends that we grant Illinois Power Co. a forty-five (45)-day provisional variance for its facility located in St. Clair and Randolph Counties facility from the suspended solids (TSS) effluent requirements, as set forth in 35 Ill. Adm. Code 304.120 and 304.141(a), for the period from when the petitioner begins dredging operations in the ash pond and continuing for no longer than 45 days.

The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency agrees that the repairs are necessary. The Agency anticipates that the requested provisional variance would have minimal environmental impact on the receiving stream. The Agency is unaware of any public water supplies that the requested provisional variance would adversely impact. The Agency maintains that a grant of a provisional variance would violate no federal laws. The Agency finds that a denial of the requested provisional variance would create an arbitrary or unreasonable

hardship on the petitioner.

Provisional variances are by their very nature temporary. The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. (See 415 ILCS 5/35 (b) & 36(c)). In provisional variances it is the responsibility of the Agency to make the technical determinations and finding of arbitrary or unreasonable hardship. The Board's responsibility is to adopt a formal order, to assure the formal maintenance of the record, to assure the enforceability of the variance, and to provide notification of the action by a press release.

Having received the Agency recommendation finding that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants the petitioner a provisional variance from 35 Ill. Adm. Code 304.120 and 304.141(a), on the following conditions:

1. The term of this provisional variance shall commence when the petitioner, Illinois Power Co., initiates dredging operations in the ash pond, and it shall expire on the date the petitioner completes the required maintenance work, or after forty-five (45)-days have elapsed, whichever comes first;

2. During the term of this provisional variance, the effluent from the petitioner's treatment plant shall not exceed concentrations of 75 mg/l TSS for a monthly average and 150 mg/l TSS on a daily maximum basis.

3. The petitioner shall notify Eric Merz of the Agency's Collinsville Regional office by telephone, at 618/346-5120, when the dredging operation begins and again when the dredging operation ends, and the petitioner shall confirm this notice in writing within five (5) days, addressed as follows:

Illinois Environmental Protection Agency
Division of Water Pollution Control
Compliance Assurance Section
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

Attention: Barbara Conner

4. The petitioner shall perform the necessary maintenance and modification work as expeditiously as possible and

operate its plant during the term of this provisional variance in a manner that assures the best treatment practicable; and

5. The petitioner shall execute a copy of a Certificate of Acceptance of this provisional variance and forward that copy to the Agency addressed as is the written notice required in the above condition; the petitioner shall forward that copy within ten (10) days of the date of this order of the Board, and the Certificate of Acceptance shall take the following form:

CERTIFICATION

I (We), _____,
hereby accept and agree to be bound by all terms
and conditions of the order of the Pollution
Control Board in PCB 94-81, March 3, 1994.

Petitioner

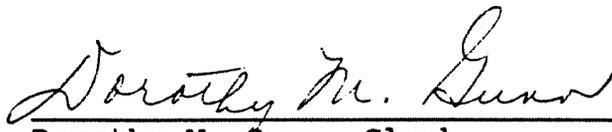
Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 3rd day of March, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board