

ILLINOIS POLLUTION CONTROL BOARD

May 16, 2002

SOUTHERN ILLINOIS UNIVERSITY,	)	
EDWARDSVILLE,	)	
	)	
Petitioner,	)	
	)	PCB 02-105
v.	)	(NPDES Permit Appeal)
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by N.J. Melas):

On February 7, 2002, the Board, at the parties' request, extended until May 7, 2002, the time period within which Southern Illinois University, Edwardsville (SIUE) may appeal a January 2, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.208(a). On May 6, 2002, SIUE filed a petition asking the Board to review the Agency's determination.

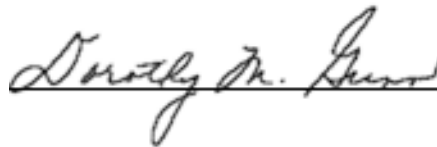
The Agency issued a final National Pollutant Discharge Elimination System (NPDES) permit for discharges from SIUE's heating and cooling facility to Tower Lake at the SIUE campus, Highway 157, Edwardsville, Madison County. SIUE appeals on these grounds: the discharge of its non-contact cooling water does not have to meet the temperature requirements of 35 Ill. Adm. Code 211(d) and (e) because Tower Lake is man-made and has no natural temperature; that several of the permit requirements apply to rivers as opposed to lakes and thus are not applicable; that the proposed permit provides no monitoring points in Tower Lake; and that the monitoring requirements for the permit are inconsistent. SIUE's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

SIUE has the burden of proof. 415 ILCS 5/40(a)(1) (2000); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000)), which only SIUE may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, SIUE "shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act [415 ILCS 5/41(d) (2000)]." 415 ILCS 5/40(a)(3) (2000). Currently, the decision deadline is September 3, 2002. *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for August 22, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by June 6, 2002 which is 30 days after SIUE filed the petition. 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 16, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board