

203(i)(1) through (4) and Item 6 of their NPDES permit. This would entail a severe economic hardship to CIPS and its customers and is unreasonable at a time when CIPS is pursuing its rights under Rule 203(i)(10). CIPS alleges that predictive studies contained in the Newton Lake thermal demonstration indicate that Newton Lake will support a significant and varied fishery under the anticipated thermal conditions and that actual field surveys made with the Newton unit #1 in operation have to date verified that Newton Lake does indeed support the fishery.

In its Recommendation, the Agency proposes that the petition for variance be granted under certain conditions. The condition requested by the Agency include a recommendation by CIPS to the Board and Agency with respect to an interim thermal limitation, which can be met under current conditions with one generating unit. In addition, the Agency requests that it be allowed to comment on the proposed interim limitation and that any discharge from Lake Newton to Weather Creek comply with the applicable conditions of Rule 203(i)(1) through (4). The Board finds that the conditions requested by the Agency are reasonable and that information thus developed may be of some use to the Board in its deliberation in determining a specific interim limitation for Newton Lake in PCB 78-271. The Board will therefore grant CIPS variance, subject to certain conditions, from the requirements of Rules 203(i)(1) through (4) of Chapter 3 and from the requirements of Item 6 of CIPS NPDES permit until (1) such time as the Board makes a final determination in PCB 78-271 or (2) CIPS requests a new variance or (3) two years from the date of this Order, whichever first occurs.

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

ORDER

It is the Order of the Pollution Control Board that:

- 1) Central Illinois Public Service Co. be granted variance from Rules 203(i)(1) through (4) of the Board's Chapter 3 and from the requirements of Item 6, attachment B(2) of the NPDES permit number IL0049191 issued by the Illinois Environmental Protection Agency on March 23, 1979 for its Newton Power Station until such time as (1) the Board enters their final Order in PCB 78-271, or (2) until Central Illinois Public Service Co. requests a new variance with respect to the applicable thermal standards for Newton Lake, or (3) two years from the date of this Order, whichever occurs first, under the following conditions:

- a) Central Illinois Public Service Co. shall, within 90 days of the date of this Order, prepare and send to the Illinois Environmental Protection Agency, a report with supportive data that indicates what thermal limitation can be met under the current operating conditions with one generating unit.
- b) Any discharge from Lake Newton to Weather Creek shall comply with the applicable provisions of Rule 203(i)(1) through (4) during the terms of this variance.
- c) Within 45 days of the adoption of this Order, Central Illinois Public Service Co. shall execute and forward to the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 a certification of Acceptance and Agreement to be bound to all terms and conditions of this Order. The 45 day period shall be held in abeyance during any period this matter is being appealed. The form of said certification shall be as follows:

CERTIFICATION

I (We), _____, having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 79-84, hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

SIGNED _____

TITLE _____

DATE _____

- d) The Agency shall modify petitioner's NPDES permit in accordance with any interim limitations determined in this case.
- 2) The Board will retain jurisdiction in this matter for the purpose of reviewing any proposed interim limitations determined by the parties herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 12th day of July, 1979 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board