

ILLINOIS POLLUTION CONTROL BOARD
March 17, 1994

| | | |
|-------------------------|---|------------------------|
| CENTRAL ILLINOIS PUBLIC |) | |
| SERVICE COMPANY, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 94-91 |
| |) | (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)), the Illinois Environmental Protection Agency (Agency), by and through its Director, Mary A. Gade, seeks a provisional variance for Central Illinois Public Service Company in order to allow it to use chlorine dioxide to destroy the present infestation of zebra mussels within the intake pipelines for its power plant. The Agency Recommendation was filed March 16, 1994.

Specifically, the Agency recommends that we grant Central Illinois Public Service Company a 45-day provisional variance for its Morgan County facility from the regulatory prohibition against violation of a water quality standard, as set forth in 35 Ill. Adm. Code 304.141(b) and 302.208(d), for the period of forty-five (45)-days or until the Petitioner's modified permit is issued in its final form, whichever occurs first.

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) (1992) (Ill. Rev. Stat. 1991, ch. 111½, pars. 1035(b) & (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 Petitioner a provisional variance from 35 Ill. Adm. Code 304.141(b) and 302.208(d) on the following conditions:

1. The term of this provisional variance shall commence when the Petitioner, Central Illinois Public Service Company, initiates its zebra mussel eradication procedures and it shall continue for a period of forty-five (45)-days or until the Petitioner's modified permit is issued in its final form, whichever comes first;
2. The Petitioner shall notify John Wells of the Agency's Springfield Regional office by telephone, at 217/786-6892, when it initiates its zebra mussel eradication procedure and when the procedure is completed, and the Petitioner shall confirm this notice in writing within five 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: Mark T. Books

3. The Petitioner shall meet a daily maximum limit of 0.05 mg/l for total residual chlorine. In addition, Petitioner shall also meet the other effluent limits set forth in its NPDES permit.
4. The Petitioner shall monitor its effluent for total residual chlorine on a continuous basis as proposed in its variance request during the zebra mussel eradication procedure.
5. 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 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 94-91, March 17, 1993.

Petitioner

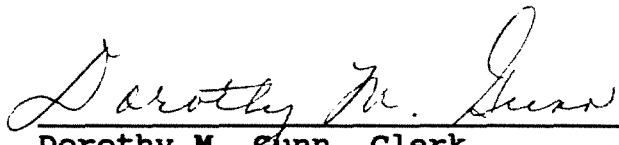
Authorized Agent

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 by the
Board on the 17th day of March, 1994,
by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board