

ILLINOIS POLLUTION CONTROL BOARD  
March 31, 1994

IN THE MATTER OF: )  
 )  
PETITION OF RHONE-POULENC BASIC )  
CHEMICALS COMPANY and THORN CREEK ) AS 94-7  
BASIN SANITARY DISTRICT ) (Adjusted Standard)  
FOR AN ADJUSTED STANDARD FROM )  
35 ILL. ADM. CODE 302.201 and )  
304.105 )

ORDER OF THE BOARD (by R.C. Flemal):

On February 18, 1994, Rhone-Poulenc Basic Chemicals Company (Rhone-Poulenc) and the Thorn Creek Basin Sanitary District (District) filed a petition for adjusted standard. Rhone-Poulenc and the District seek an adjusted standard regarding Rhone-Poulenc's discharge to the District from its proposed facility located in Chicago Heights, and the District's discharge to Thorn Creek. The discharges concern total dissolved solids and sulfates.

Section 28.1 of the Environmental Protection Act 415 ILCS 5/28.1 (1992) (Act) authorizes the Board to dismiss the instant petition at any time if it determines that the petition is duplicative or frivolous, or that the petitioner is not pursuing disposition of the petition in a timely manner. In addition, Board regulations at 35 Ill. Adm. Code 106.902(a) authorize dismissal if the petition is deficient with respect to the requirements of 35 Ill. Adm. Code Sections 106.705, 106.706, 106.710 and 106.712.

Section 28.1 also requires the Board to conduct a public hearing if the Board, in its discretion, determines a hearing would be advisable or if the Board receives a request for hearing from any person within 21 days of publication of public notice of the filing of the petition. The Board received proof of the notice publication on March 11, 1994.

An action before the Board is duplicative if the matter is identical or substantially similar to one brought in another forum (Brandle v. Ropp, PCB 85-68, 64 PCB 263 (1985)). An action before the Board is frivolous if it fails to state a cause of action upon which relief can be granted by the Board (Citizens for a Better Environment v. Reynolds Metals Co., PCB 73-173, 8 PCB 46 (1973)). A petition is deficient with respect to 35 Ill. Adm. Code Sections 106.705, 106.706, 106.710 and 106.712 if it omits any required information or lacks any required supporting affidavits or proofs as specified in those sections.

There is no evidence before the Board to indicate this matter is identical or substantially similar to any matter

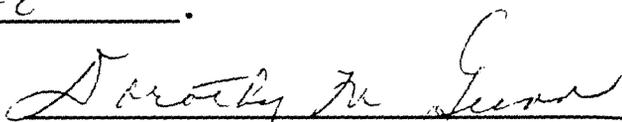
brought in another forum, nor is there any evidence that the Board cannot grant the relief requested. At this time, therefore, the Board finds that, pursuant to 35 Ill. Adm. Code 103.124(a), the petition is neither duplicative nor frivolous. Since this action has just been filed, there is also no evidence before the Board that petitioner is not pursuing timely disposition of the petition. Additionally, at this time there is no evidence before the Board that the petition is deficient with respect to 35 Ill. Adm. Code Sections 106.705, 106.706, 106.710 and 106.712.

Finally, the petitioners have waived their rights to a hearing in this matter. Section 28.1 of the Act allows for any person within twenty-one (21) days of the publication of the notice of the petition for an adjusted standard to request that a hearing be held. The notice was published on February 20, 1994. The Board has not received a request for a hearing in this matter, neither does the Board believe that a hearing would be advisable at this time; therefore none will be held. The Agency's response to the petition is due to be filed on March 21, 1994, 30 days after the filing of the petition (35 Ill. Adm. Code 714).

This is a type of case for which the Act prescribes no deadline for decision, although as noted the Act requires the petitioner to timely pursue disposition of the petition.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 31<sup>st</sup> day of March, 1994, by a vote of 5-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board