

ILLINOIS POLLUTION CONTROL BOARD

September 5, 2013

IN THE MATTER OF:)
)
PETITION OF CATERPILLAR INC.) AS 13-5
FOR AN ADJUSTED STANDARD FROM) (Adjusted Standard – Water)
35 ILL. ADM. CODE 620.410(a) AND)
817.106(a))

ORDER OF THE BOARD (by C.K. Zalewski):

On June 27, 2013, Caterpillar Inc. (Caterpillar) filed a petition (Pet.) for an adjusted standard pursuant to Section 28.1 of the Environmental Protection Act (Act) and Part 104 of the Board's procedural rules. *See* 415 ILCS 5/28.1 (2012); 35 Ill. Adm. Code 104.Subpart D. Along with the petition, Caterpillar filed a motion for expedited review (Mot.) of the petition. Caterpillar requests an adjusted standard from the Class I groundwater quality standard for Total Dissolved Solids (TDS) found at 35 Ill. Adm. Code 620.410(a) of the Board's rules. Caterpillar seeks the adjusted standard for its on-site potentially usable waste landfill that receives waste from Caterpillar's foundry, located at the same site as the landfill in Mapleton, Peoria County.

On August 14, 2013, the Board received the Illinois Environmental Protection Agency's (Agency) recommendation (Rec.) that the Board grant Caterpillar's request for an adjusted standard for TDS. On August 22, 2013, the Board received Caterpillar's response to hearing officer's order seeking additional information regarding Caterpillar's petition. Also on August 22, 2013, the Board received Caterpillar's response to the Agency's recommendation (Resp.). For the reasons set forth below, the Board grants Caterpillar's motion to expedite.

Requests for expedited review are governed by Section 101.512 of the Board's rules, and must contain, *inter alia*, a complete statement of the facts and reasons for the request. *See* 35 Ill. Adm. Code 101.512. In acting on a motion for expedited review, the Board considers, at a minimum, all statutory requirements and whether or not material prejudice will result from the motion being granted or denied. 35 Ill. Adm. Code 101.512 (b). In addition, the Board will only grant a motion for expedited review consistent with available resources. *See* 35 Ill. Adm. Code 101.512(c).

In its motion for expedited review, Caterpillar states that the Agency has granted Caterpillar temporary relief from the TDS groundwater quality standard in a modification to its landfill permit 1995-154-LFM, issued March 11, 2013. Mot. at 1. The portion of the permit modification relevant to the TDS groundwater standard expires at the close of the fourth quarter of 2013. *Id.*; *see also*, Pet. Exhibit 1 at 2, 12. Caterpillar requests expedited review of the petition for adjusted standard so that any relief granted by the Board may take effect prior to expiration of the relief granted by the Agency. Mot. at 1.

The Agency's recommendation states that since Caterpillar provided the Agency with a draft petition, on June 29, 2012, "discussions and information exchanges concerning the issues

associated with this adjusted standard have occurred between [Caterpillar] and the [Agency]. [Caterpillar] has satisfactorily addressed the questions and comments presented by the [Agency] during this period and the information used to do this has been incorporated in the [petition].” Rec. at 3. One concern raised by the Agency in its recommendation is that Caterpillar would interpret the relief of the adjusted standard as allowing it to accept new waste streams that exceed the TDS groundwater quality standard. *Id.* at 4. The Agency recommends that, if granted, the adjusted standard should address this concern by limiting the relief to landfill leachate only. *Id.* at 4-5. In its response to the Agency’s recommendation, Caterpillar proposes adjusted standard language that expressly addresses the Agency’s concern. Resp. at 2.

The Board finds that because Caterpillar’s permit relief expires at the end of the current year, Caterpillar would be prejudiced if the petition for adjusted standard was not resolved before that time. In addition, nothing in the record persuades the Board that granting Caterpillar’s motion would result in prejudice to the parties in this matter. Therefore, the Board grants Caterpillar’s motion for expedited review consistent with available resources and decision deadlines. *See* 35 Ill. Adm. Code 101.512.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 5, 2013 by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board