

ILLINOIS POLLUTION CONTROL BOARD
March 6, 2014

IN THE MATTER OF:)
)
WATER QUALITY STANDARDS AND) R08-9 (Subdocket D)
EFFLUENT LIMITATIONS FOR THE) (Rulemaking - Water)
CHICAGO AREA WATERWAY SYSTEM)
AND LOWER DES PLAINES RIVER:)
PROPOSED AMENDMENTS TO 35 ILL.)
ADM. CODE 301, 302, 303, and 304)

ORDER OF THE BOARD (by D. Glosser):

On January 31, 2014, the Illinois Environmental Protection Agency (IEPA) filed a “status” for Subdocket D (PC 1396), which asks that a new subdocket be opened to address water quality standards for chloride. Also on January 31, 2014, ExxonMobil Oil Corporation (ExxonMobil) filed a comment in support of IEPA’s request. PC 1397. On February 5, 2014, the hearing officer allowed participants until February 14, 2014, to file responses to IEPA’s status. On February 13, 2014, Citgo Petroleum Corporation and PDV Midwest LLC (Citgo/PDV) filed a response to the IEPA’s filing, opposing a delay of a Board decision on water quality standards for chlorides in the Chicago Sanitary and Ship Canal (CSSC). PC 1399.

For the reasons discussed below, the Board declines to open a new subdocket in this proceeding to address the water quality standards for chlorides in the Chicago Area Waterway System (CAWS) and the Lower Des Plaines River (LDPR).

STATUS AND REQUEST FOR NEW SUBDOCKET

On December 17, 2013, at the close of hearing, the hearing officer asked that participants notify the hearing officer, by January 31, 2014, if the participants wished to stay Subdocket D. *See* 12/17/13Tr. at 201-02. The hearing officer indicated that a final comment date would be set if the Board did not receive a request for stay. *Id.* IEPA filed its status in response to the hearing officer request. PC 1396 at ¶4. IEPA indicates it is ready to proceed in Subdocket D except for the chloride standard. *Id.* at ¶5. IEPA indicates that it is in discussions with several participants and the USEPA; therefore more time is needed to work on the chloride standards. *Id.* IEPA proposes that a new subdocket be opened to address the chloride standard. *Id.* at ¶6.

ExxonMobil supports the opening of a new subdocket to address the chloride standard. PC 1397.

Citgo/PDV indicates that it pursued regulatory relief for total dissolved solids (TDS) for over six years and viewed the recent hearings in Subdocket D as “the time” to present evidence on chloride standards for Aquatic Life Use (ALU) B waters. PC 1399 at 2. Citgo/PDV presented testimony and responded to questions at the hearing. *Id.* Citgo/PDV sees no reasons to delay further decisions in Subdocket D relating to ALU B waters. *Id.* Citgo/PDV does not

object to delaying a decision on chloride standards for other parts of the CAWS, but does object to a delay in establishing a water quality standard for chloride in the Chicago Sanitary and Ship Canal. *Id.*

DISCUSSION

This proceeding began in 2007 and the Board has held over 50 days of hearings. The record includes extensive testimony from those hearings. That testimony included information on water quality standards for several constituents, including chlorides. The Board has already made decisions on recreational uses, water quality standards necessary to protect the recreational uses, and aquatic life uses that must be protected by the water quality standards the Board will propose in this subdocket. The last hearing held in this subdocket dealt almost exclusively with chloride water quality standards.

While the Board appreciates the willingness of parties to continue to discuss a chloride water quality standard, the Board is unconvinced that a further delay in proceeding to first notice on a chloride water quality standard is necessary. This is especially relevant as the IEPA had not suggested what additional information might become available after a delay to justify a water quality standard for chlorides. An immediate issue that would need to be addressed is what water quality standard for chloride would apply while a new subdocket was opened and discussions continue. The Board believes that there is sufficient information in this record to proceed with water quality standards including chlorides. While issues may still exist, the Board is developing a first notice proposal and participants can continue to offer comment on any proposal developed by the Board. Similarly, if the participants wish to continue to discuss chlorides, outside the record, and offer comment on the Board's first notice proposal, they can certainly do so.

The Board therefore declines to open a subdocket to deal with chloride water quality standards. Rather, the Board directs the hearing officer to establish a comment period to allow participants to provide final pre-first notice comments on the IEPA's proposed water quality standards. The Board will then consider the record in its entirety in developing water quality standards that are necessary to protect the aquatic life use designations adopted by the Board.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 6, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board