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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PETITION BY HAYDEN)
WRECKING CORPORATION)
FOR AN ADJUSTED)
STANDARD FROM)
35 ILL. ADM. CODE § 620.410(a))

Docket No.: AS 04-003

RESPONSE TO IEPA RECOMMENDATION
TO PETITION FOR ADJUSTED STANDARD

COMES NOW, Hayden Wrecking Corporation ("Hayden"), through its undersigned counsel, and pursuant to Section 28.1 of the Illinois Environmental Protection Act (the "Act"), 415 ILCS 5/28.1, and 35 Ill. Adm. Code 104.416(d), files this Response to the Illinois Environmental Protection Agency's ("IEPA") Recommendation to Hayden's Petition for Adjusted Standard. The IEPA recommends that the Illinois Pollution Control Board ("Board") grant Hayden an Adjusted Standard from the Class I groundwater standards for four inorganic chemicals codified at 35 Ill. Adm. Code 620.410(a), subject to two conditions: (1) clarification of the specific regulations that the Petition and Adjusted Standard address, and (2) clarification that the revised standards apply exclusively to Hayden's facility. See Recommendation, p.6. Hayden has no objection to these conditions and responds as follows:

I. Proposed Adjusted Standard—35 Ill. Adm. Code 104.406(f)

The IEPA's proposed conditions relate to 35 Ill. Adm. Code 104.406(f), which requires a Petition for Adjusted Standard to include both a narrative description of the proposed adjusted standard and proposed language for a Board order imposing the standard.

Hayden has no objection to clarifying this and proposes to revise the Class I groundwater standards for arsenic, iron, lead and manganese only at its former landfill sites as follows:

620.410 Groundwater Quality Standards for Class I: Potable Resource Groundwater

a) Inorganic Chemical Constituents: Except due to natural causes or as provided in Section 620.450, concentrations of the following chemical constituents must not be exceeded in Class I groundwater (those limitations marked with an * shall apply only to Hayden Wrecking Corporation's former landfill sites located near the intersection of Illinois Route 203 and Interstate 55/70 in Madison, St. Clair County, Illinois):

Constituent	Units	Standard
Antimony	mg/L	0.006
Arsenic	mg/L	0.05 (* 0.082)
Barium	mg/L	2.0
Beryllium	mg/L	0.004
Boron	mg/L	2.0
Cadmium	mg/L	0.005
Chloride	mg/L	200.0
Chromium	mg/L	0.1
Cobalt	mg/L	1.0
Copper	mg/L	0.65
Cyanide	mg/L	0.2
Fluoride	mg/L	4.0
Iron	mg/L	5.0 (* 735)
Lead	mg/L	0.0075 (* 0.220)
Manganese	mg/L	0.15 (*24.2)
Mercury	mg/L	0.002
Nickel	mg/L	0.1
Nitrate as N	mg/L	10.0
Radium-226	pCi/l	20.0
Radium-228	pCi/l	20.0
Selenium	mg/L	0.05
Silver	mg/L	0.05
Sulfate	mg/L	400.0
Thallium	mg/L	0.002
Total Dissolved Solids (TDS)	mg/L	1,200
Zinc	mg/L	5.0

The IEPA also points out that Hayden does not detail the costs associated with achieving the Adjusted Standard, as required by 35 Ill. Adm. Code 104.406(f). It will not cost Hayden to comply with the Adjusted Standard. As stated in the Petition and recognized by the IEPA, the requested alternate limits are based on the highest concentrations for each inorganic

constituent previously found at Hayden's former landfill sites. As such, there are no additional efforts necessary and there are no corresponding costs associated with achieving the Adjusted Standard.

II. Compliance Alternatives – 35 Ill. Adm. Code 104.406(e)

In addition to recommending the conditions mentioned above, the IEPA also notes that 35 Ill. Adm. Code 104.406(e) requires Hayden to describe the efforts which would be necessary for Hayden to comply with 35 Ill. Adm. Code 620.410(a), the regulation of general applicability, and also requires a list of the compliance alternatives with corresponding costs. Though the Petition lacks this information, the IEPA states this does not affect its decision to recommend that the Board grant Hayden's Adjusted Standard.

Hayden's compliance options, other than pursuing this Adjusted Standard, are:

(1) Hayden may attempt to locate the source of the exceeded levels of the inorganic constituents and proceed with a judicial/administrative action to force the source to remediate both its on and off-site constituents, or (2) Hayden may attempt to convince the IEPA/U. S. EPA to become involved to force the source to remediate the on and off-site constituents. The corresponding costs and time frame associated with either option are unquantifiable, speculative, and prohibitive (especially if litigation and/or state resource costs are factored in). In addition, there is no guarantee that the source will be able to remediate the constituents to the groundwater quality standards enumerated in 35 Ill. Adm. Code 620.410(a).

The former landfill sites are now a paved parking lot for the Gateway International Raceway, which is a source of revenue for St. Clair County. Either compliance option described above would likely also involve groundwater sampling and monitoring which

could disrupt the transportation and parking structure of the Raceway and would be cost-prohibitive.

III. Impact on the Environment – 35 Ill. Adm. Code 104.406(g)

Finally, the IEPA notes that Hayden's Petition does not discuss the impact of its activity on the environment should it comply with the regulation of general applicability, versus the environmental impact if the Board approves the proposed Adjusted Standard. The IEPA points out that this omission is immaterial to its Recommendation to Grant the Adjusted Standard.

The environmental impact of complying with the Adjusted Standard is the same as, if not less than, the impact of complying with the current groundwater standards. The former landfill sites have been closed since 1992 and have been graded and covered with limestone since 1999. Visitors to the Gateway International Raceway currently use the sites as a parking lot. Though no detrimental effect of noncompliance with applicable groundwater standards has been shown, Hayden has taken additional steps to ensure that complying with the Adjusted Standard will not affect the environment. As set forth in the Petition, Hayden will establish an Environmental Land Use Control on the sites, and Hayden has enacted a groundwater ordinance with the City of Madison. Both steps will prohibit the potable use of the site's groundwater.

IV. Conclusion

Hayden requests an Adjusted Standard from the requirements of 35 Ill. Adm. Code 60.410(a) for arsenic, iron, lead, and manganese that will apply only to Hayden's former landfill sites in Madison, St. Clair County, Illinois. The IEPA recommends that the Board grant Hayden's Petition, subject to two conditions. Hayden does not oppose these conditions and

respectfully requests that the Board adopt Hayden's proposed Adjusted Standard as soon as possible.

Dated: June 3, 2004

Respectfully submitted,

GREENSFELDER, HEMKER, & GALE, P.C.

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of Hayden's Response to IEPA Recommendation to Petition for Adjusted Standard was deposited in an envelope with postage fully prepaid, and that said envelope was deposited in a U.S. Post Office mailbox in St. Louis, Missouri, on the 3rd day of June, 2004, addressed to the following persons:

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