

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

Docket No.: AS 04-003
(Adjusted Standard)

SEP 27 2004

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

TO: Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
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PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the Response of Hayden Wrecking Corporation to the Amended Recommendation of the Illinois Environmental Protection Agency to Hayden's Amended Petition for Adjusted Standard from 35 Ill. Adm. Code 620.410(a), copies of which are herewith served upon you.

Dated: September 23, 2004

GREENSFELDER, HEMKER, & GALE, P.C.

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Attorneys for Hayden Wrecking Corp.

Hayden filed its Response to the IEPA's Recommendation. On the same day, the Board issued an Order requesting Hayden submit additional information in an Amended Petition.¹ Hayden filed an Amended Petition with the Board on July 19, 2004. The IEPA filed its Amended Recommendation on September 3, 2004. Hayden is now responding to the Amended Recommendation, received September 9, 2004.² Incorporated by reference, to the extent necessary and as delineated herein, are all of Hayden's previous filings in this matter.

I. Description of Area Affected— 35 Ill. Adm. Code 104.406(d)

35 Ill. Adm. Code 104.406(d) requires that a person seeking an adjusted standard provide, among other information, a location of, and area affected by, the petitioner's activity. Hayden provided this information in its initial Petition for Adjusted Standard. In its June 3, 2004 Order, the Board requested additional information regarding off-site properties downgradient from Hayden's site, anticipated or existing uses of groundwater from those properties, whether there are any potable or public water supply wells within 2,500 feet of the site and a site map.³ The IEPA agrees with Hayden's analysis of off-site downgradient properties and anticipated uses (Amended Recommendation at pp. 3-4). Therefore, no additional information is provided herein on those topics.

¹ It should be noted that Hayden filed its Response to the IEPA's Recommendation within the timeframe allowed pursuant to 35 Ill. Adm. Code 104.416(d). In footnote 1 to its Amended Recommendation, the IEPA states that it will not be replying to Hayden's Response. Hayden agrees that the IEPA probably does not have the statutory authority to file a Reply to a Response without Board approval, but Hayden states that its Response was proper in a procedural context.

² It should also be noted that Hayden did not receive a hard copy of the IEPA's Amended Recommendation until September 20, 2004. However, counsel for the IEPA called the undersigned on September 3, 2004 and indicated he had filed the Amended Recommendation. When a copy was not received by September 9, 2004, the undersigned called counsel for the IEPA, who faxed a copy of the Amended Recommendation. In subsequent conversations with Board Attorney Assistant Tim Fox, Hayden is using the September 9, 2004 faxed receipt date in calculating its response date pursuant to 35 Ill. Adm. Code 104.418(c).

³ In its Order, the Board also requested information related to groundwater monitoring data which Hayden provided in its Amended Petition. The IEPA had no comment on the monitoring information provided, except to note it was consistent with the data in the IEPA's files.

In its Amended Recommendation, the IEPA states that Figure 3 to Exhibit 1 may be incorrect in detail due to the scale used (Amended Recommendation at pp. 5-6). Hayden is now providing a **Revised Figure 3 in Exhibit D**, Amended EOI Report, which shows the correct scale. It should be noted, and will also be explained further in Section III, Environmental Impacts, below, that the **Revised Figure 3 (and page 3 of Exhibit D, Amended EOI Report)** indicates that the migration of manganese (as modeled for MW-6) now extends 687.53 meters (2,255 feet) beyond Hayden's property boundary. However, the modeled off-site impacts extend only to the southern portion of the Gateway property, which is used for a parking lot. Finally, Hayden has already demonstrated that there are no potable public or private water supply wells within 2,500 feet of Hayden's site and the modeled impacts are less than 2,500 feet from Hayden's site boundary.

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

In its Order, the Board had requested that Hayden describe the efforts and corresponding costs that would be necessary for Hayden to comply with 35 Ill. Adm. Code 620.410(a), compliance alternatives and corresponding costs. As stated throughout these pleadings, the bottom line is that Hayden is not the source of the groundwater exceeding the Class 1 groundwater quality standards. The groundwater is originating from an off-site upgradient source. Therefore, unless and until the source of the groundwater is addressed, it is technically impracticable and economically unreasonable for Hayden to meet the Class I groundwater quality standards.

In its Amended Petition, Hayden identified two possible compliance alternatives: (1) the installation of a hydraulic barrier; and (2) groundwater pump and treat (Amended Petition at pp. 5-6). In its Amended Recommendation, the IEPA agrees that either option is technically

requested a rough estimate of the number of extraction wells needed to support the cost figures (Amended Recommendation at p. 8). In its Amended Petition, Hayden estimated that the capital costs involved in designing and installing a pump and treat system would be approximately \$330,000 and the annual operation and maintenance costs would be approximately \$225,000 per year for 15 years, for a total estimated cost of just over \$3.5 million (Amended Petition at p. 6). Hayden's consultant, EOI, states that this cost estimate is based on 10-12 extraction wells (See **Exhibit D**, Amended EOI Report at p. 5).

III. Environmental Impacts—35 Ill. Adm. Code 104.406(g)

In its Order, the Board requested information related to the off-site environmental impact of migration from Hayden's site of groundwater with levels of certain inorganic compounds above the Class 1 groundwater quality standards. In its Amended Petition, Hayden provided off-site environmental impact information based on data from sampling performed in 2001. The modeling results from the 2001 sampling indicated there were potential off-site impacts from iron, lead and manganese (arsenic was modeled to have no off-site impacts), but no impacts were modeled further than the highway right-of-way for Illinois State Route 203 and/or the Interstate 55/70 interchange. Thus, in its initial and Amended Petition, Hayden stated that because there were no groundwater wells located in that area, because the area was unlikely to be developed due to the presence of the highways, and because there were already institutional controls in place, the potential modeled off-site impacts should not be a determining factor in approving the adjusted standard (Petition at pp. 9-11; Amended Petition at pp. 2, 9).

In its Amended Recommendation, the IEPA appears to raise several points regarding the modeling results. The IEPA questions: (1) the use of sampling results from 2001; (2) the use of the TACO Plus! model and equation R026, pursuant to 35 Ill. Adm. Code 742.801;

The IEPA states that TACO Plus! uses equations which are designed for situations where the source of contamination has been removed. However, the IEPA then goes on to state that the model may be justified since a specific timeframe will show the estimated migration rate of the concentrations at that specific time (Amended Recommendation at pp. 10-11). Hayden respectfully disagrees that TACO Plus! is generally used in situations where the source of contamination has been removed. TACO Plus! is based on the assumption of infinite source and concentration, which does not diminish over time, which are conservative assumptions (Exhibit D, Amended EOI Report at p. 1). Whereas, in this case, there has been natural attenuation occurring at the Hayden site and the use of TACO Plus! is justified as being a conservative model.

Hayden stated in its Amended Petition that the initial modeling runs did not take into account retardation, degradation or attenuation factors (Amended Petition at p. 2). The IEPA questions whether these factors were actually taken into account because the IEPA states that data sheets and input files were not provided. The data sheets and input files were provided both in Hayden's Amended Petition as Attachment 1 to Exhibit 1, EOI Report, and this Response as **Attachment 1 to Exhibit D**, Amended EOI Report. Specifically, Datasheet B (Physical Soil Parameters) and Datasheet RBCA-VII are included herein. Additionally, **pages 3-4 of Exhibit D**, Amended EOI Report, also provide the applicable input parameters. The only attenuation parameters applicable to this situation relate to dispersion because inorganics (metals) are being modeled. There is no attenuation through biodegradation or adsorption. Dispersion components are shown in Datasheet RBCA-VII. Finally, Datasheet RBCA-VII also shows that no values were input for the first order degradation constant, and therefore, no degradation was assumed.

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(* 373)
Lead	mg/L	0.0075 (* 0.220)
Manganese	mg/L	0.15 (* 9.12)
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

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of Hayden's Response to IEPA Amended Recommendation to Amended 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 23rd day of September, 2004, addressed to the following persons:

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