

ILLINOIS POLLUTION CONTROL BOARD  
October 18, 1979

IN THE MATTER OF: )  
 )  
PROPOSED AMENDMENT TO RULE ) R78-13  
203.1 OF THE WATER POLLUTION )  
CONTROL REGULATIONS )

ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a petition to amend regulations filed October 20, 1978 by Petitioner Borden Chemical Company, a division of Borden, Incorporated (Borden). The petition sought to amend Rule 203.1 of Chapter 3: Water Pollution to provide a site specific exemption to those parts of Rule 203(f) which set water quality standards of 500 mg/l for chloride and 1000 mg/l for total dissolved solids (TDS). The proposal would allow Borden's discharge from its plant in Illiopolis, Sangamon County, to cause chloride and TDS water quality violations in an unnamed ditch tributary to Long Point Slough and the Sangamon River. In a related proceeding the Board granted Borden a three year variance to allow operation of the plant and sampling of the ditch and effluent during the pendency of this matter (Borden v. EPA), 34 PCB 71, Order entered June 22, 1979. On August 23, 1979 the Board entered an Order giving Petitioner thirty-five days to either agree to a hearing date or file a motion setting forth a sufficient reason for delaying this proceeding. On September 27, 1979 Borden filed a motion to extend time for hearing. On October 10, 1979 the Environmental Protection Agency (Agency) filed a response and motion to dismiss.

Borden's discharge consists in part of a brine which is produced from scrubbing waste gasses from a vinyl chloride emission control incinerator. This system became operational on October 21, 1978. Samples were taken during the winter, but the plant was not in full production, the weather interfered with sampling and melting snow caused dilution. From May 1 through June 18, 1979 the plant was on strike and during a period in July the incinerator was out of service. In late July the plant achieved normal operating levels. Not until August, 1979 did Borden employ an independent consultant to conduct field studies. For these reasons Borden has requested a six month delay in scheduling the merit hearings.

In the petition Borden requests exemption from the chloride and TDS water quality standards. Borden must present evidence of the environmental impact of its discharge to justify exemption or to propose new standards for the ditch. At the very least Petitioner must sample during the fish reproduction stage and during low flow, high temperature conditions of late summer in order to establish the environmental impact. In addition, Petitioner must establish a suitable control, either by sampling the receiving stream prior to impact of the discharge, or by sampling similar, non-impacted systems. Sampling should include not only fish but also aquatic and riparian vegetation and phytoplankton, zooplankton and macroinvertebrates, paying special attention to salt sensitive and tolerant species. Considering the necessary data, it is unlikely that Borden will be ready to proceed by April, 1980.

Procedural Rule 205(a) provides that: "The Hearing Officer, after appropriate consultation with the proponent, shall set a time and place for a hearing, which shall be within a reasonable time after the date the proposal was received by the clerk." Borden did not have data to present when the petition was filed and it was therefore not ready for a hearing within a reasonable time. Since it will be at least six months before Borden is ready for a merit hearing, this proceeding is dismissed without prejudice. A literal reading of the Board's Order of June 22, 1979 indicates that the variance should expire upon this dismissal. However, in its motion the Agency argued that Borden would not be prejudiced by the dismissal because of the variance. The Board concurs in this interpretation and Borden should consider the variance as continuing in spite of this dismissal. In the event Borden files another regulatory proposal, the variance will expire upon final resolution of that proceeding.

This matter, designated R78-13, is dismissed without prejudice.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 18<sup>th</sup> day of October, 1979 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board