

ILLINOIS POLLUTION CONTROL BOARD

September 7, 2006

IN THE MATTER OF: )  
)  
PETITION OF BP PRODUCTS NORTH ) AS 07-1  
AMERICA, INC. FOR RCRA WASTE ) (Adjusted Standard - Land)  
DELISTING UNDER 35 ILL. ADM. CODE )  
720.122 )

ORDER OF THE BOARD (by N.J. Melas):

On July 27, 2006, BP Products North America Inc. (BP) filed a petition for an adjusted standard from the Board's hazardous waste regulations. BP seeks a Resource Conservation and Recovery Act (RCRA) hazardous waste delisting for leachate generated from a landfill owned by BP, located at the former Amoco Wood River refinery, in Wood River, Madison County (Pond 1 Landfill). The property is bordered on the west by the Mississippi River, on the west by the Wood River Levee District (WRLD) levee, on the south by property owned by ConocoPhillips, and on the north by a former channel of Wood River.

BP seeks delisting for the leachate to reduce the costs and risk of any spill or release that could occur as a result of managing the leachate from the Pond 1 landfill. BP believes the leachate is not hazardous and would not present a hazard to human health or the environment if it were to be discharged as described in the petition.

BP previously petitioned the Board for a RCRA hazardous waste delisting of the same waste on January 19, 2006, docketed as In re Petition of BP Products North America Inc. for an Adjusted Standard Pursuant to 35 Ill. Adm. Code 721.122, AS 06-2. However, the Board did not accept the petition in AS 06-2 because BP failed to timely provide a certificate of publication. The Board found that timely proof of publication is a jurisdictional requirement and dismissed the January 19, 2006 petition.

On July 27, 2006, BP filed the adjusted standard petition that opened this docket, AS 07-1. BP requests a waiver to file a reduced number of copies of the petition and incorporate by reference appendices A through J from docket AS 06-2 into this petition. Mot. at 1; citing 35 Ill. Adm. Code 101.302(h) and 101.306(a). The Board grants both of BP's requests. The Board first allows BP to file one signed original and four, rather than nine, duplicate copies of the petition. Second, the Board waives separate filing, and accepts appendices A through J as part of the petition.

Section 28.1(d)(1) of the Environmental Protection Act (Act) (415 ILCS 5/28.1 (2004)) and Section 104.408(a) of the Board's procedural rules (35 Ill. Adm. Code 104.408(a)) require the petitioner to publish notice of the petition for an adjusted standard by advertisement in a newspaper of general circulation in the area likely to be affected by the proposed adjusted standard. Under those provisions, publication must take place within 14 days after the petition is filed, or the Board lacks jurisdiction to hear the petition. See, e.g., In re Petition of SCA Tissue

North America, L.L.C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(c), AS 05-1 (Jan. 6, 2005). Within 30 days after filing the petition, petitioner must file a certificate of publication with the Board. *See* 35 Ill. Adm. Code 104.410.

BP timely filed a certificate of publication with the Board, on August 9, 2006, indicating that notice of the petition was published in *The Telegraph* on August 1, 2006. Filing singly, BP also properly served the Agency (35 Ill. Adm. Code 104.402) and the USEPA (35 Ill. Adm. Code 720.122(n)(1)). The Board finds that BP has properly initiated the proceeding and has met the notice requirements of the Act and the Board's procedural rules.

Keeping in mind the complex analysis that the technical nature of delisting petitions require, the Board is reviewing BP's petition consistent with the Board's resources to identify whether it contains all of the necessary information. *See e.g., In re Petition of Waste Management of Illinois, Inc. for RCRA Waste Delisting Under 35 Ill. Adm. Code 720.122 for Solid Treatment Residual for CID Recycling and Disposal Facility Biological Liquid Treatment Center*, AS 05-7 (Dec. 15, 2005). BP's July 27, 2006 petition waived hearing on the petition. Whether the Board may nevertheless order a hearing depends on several factors, including whether the Board identifies informational deficiencies and, if so, BP's response to any deficiencies the Board may identify.

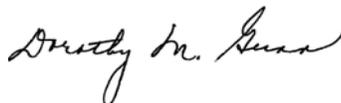
The Board allows the Agency until October 23, 2006, which is the first business day after 45 days from the date of this order, to file a recommendation. "The recommendation must set forth the rationale for the Agency's position." 35 Ill. Adm. Code 104.416(a). If the Agency recommends a denial of the petition due to informational deficiencies, "the recommendation must identify the types of information needed to correct the deficiencies." *Id.*

### CONCLUSION

The Board finds that BP has satisfied the jurisdictional requirement of providing newspaper notice of its petition for an adjusted standard. The Board also grants BP's motions to file a reduced number of copies of the petition and to incorporate appendices A through J from docket AS 06-2 into this petition. The Board continues to review the petition for informational sufficiency consistent with the Board's resources.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 7, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board