

ILLINOIS POLLUTION CONTROL BOARD

June 21, 2007

IN THE MATTER OF:	)	
	)	
SITE SPECIFIC RULE FOR CITY OF	)	R07-21
JOLIET WASTEWATER TREATMENT	)	(Site-Specific Rulemaking - Water)
PLANT, FLUORIDE AND COPPER	)	
DISCHARGES, 35 ILL. ADM. CODE	)	
303.432	)	

ORDER OF THE BOARD (by T.E. Johnson):

On May 30, 2007, the Board received a site-specific rulemaking proposal from the City of Joliet (Joliet). Joliet seeks site-specific relief from the Board’s general use water quality standards for copper and fluoride (35 Ill. Adm. Code 302.208(e) and (g)) and provisions for determining water quality based effluent limitations (35 Ill. Adm. Code 304.105). Joliet also filed a motion on April 30, 2007, asking the Board to waive the requirement that the rulemaking proposal include a petition signed by at least 200 persons. For the reasons below, the Board accepts Joliet’s proposal for hearing and grants the motion to waive the 200-signature requirement.<sup>1</sup>

**JOLIET’S PROPOSAL**

Joliet states that it is requesting “permanent relief from the water quality based effluent limitations” that apply for copper and fluoride. Proposal at 4. Specifically, Joliet proposes site-specific copper and fluoride discharge limits that would apply to its Eastside wastewater treatment plant (“Eastside WWTP”), which is located at 1021 McKinley Avenue in Joliet and serves approximately 90,000 customers. *Id.* at 2.

Under Joliet’s proposal, the general use water quality standards for copper and fluoride (35 Ill. Adm. Code 302.208 (e) and (g)) and the provisions for determining water quality based effluent limitations (35 Ill. Adm. Code 304.105) would not apply to “that portion of the Hickory Creek downstream from the Joliet Street bridge in Joliet, to the juncture with the Des Plaines River that receives the discharge from the Joliet East Side waste water treatment plant.” Proposal at 1. Instead, Joliet proposes that the Eastside WWTP discharge would have to comply with a copper limit of 0.15 milligrams per liter (mg/L) and a fluoride limit of 3.5 mg/L as monthly average values. *Id.* Joliet recommends that its site-specific rule be codified as a new Section 303.432 of Part 303 of Title 35 of the Illinois Administrative Code. *Id.*

The proposal states that the Eastside WWTP discharges its wastewater under a National Pollutant Discharge Elimination System (NPDES) permit. The NPDES permit, according to the proposal, delineates that Joliet discharges to Hickory Creek. Proposal at 3, 6. Joliet asserts that

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<sup>1</sup> The Board cites Joliet’s rulemaking proposal as “Proposal at \_,” and Joliet’s motion to waive the 200-signature requirement as “Motion at \_.”

the water quality based effluent limits in the NPDES permit “ignore the actual amount of dilution of the waters to which Joliet’s Eastside WWTP[] discharges.” *Id.* at 10. Joliet argues that the Eastside WWTP actually discharges to the Des Plaines River. *Id.* at 6.

Joliet explains that on March 30, 2007, it entered into a Consent Order with the Illinois Attorney General and the Illinois Environmental Protection Agency (Agency) in the Circuit Court for the Twelfth Judicial Circuit in Will County, Illinois, No. 05-CH-593. Proposal at 3. The Consent Order “imposed an interim daily maximum limit for copper of 0.1156 mg/l and a daily maximum fluoride discharge limit of 3.5 mg/l.” *Id.* at 3-4. Joliet states that under the Consent Order, “it was envisioned that Joliet would pursue relief from the fluoride and copper limits set forth in its NPDES Permit.” *Id.* at 4. The Consent Order, continues Joliet, provides that the fluoride interim limit expires either on May 31, 2007, or on the date “upon which a final decision regarding same could not be appealed.” *Id.* According to Joliet, the Consent Order specifies that the interim copper limit would expire when the copper limit is amended in Joliet’s NPDES permit or on the date “upon which a final decision regarding same could not be appealed.” *Id.*

Joliet asserts that compliance with the general rule is not technically or economically reasonable. Proposal at 2. Joliet is unaware of any treatments or control options to reduce copper or fluoride levels in its discharge that could be used to comply with the water quality based effluent limits in its NPDES permit. *Id.* The “one technical solution” Joliet is aware of would involve constructing a:

discharge structure to re-route the discharge from Joliet’s WWTP to the Des Plaines River at a distance of 100 yards at an estimated cost of \$ 1,500,000. The technical solution of re-routing the discharge from Joliet’s Eastside WWTP while technically feasible is not economically reasonable. The conductivity studies support that the Eastside WWTP discharge is in actuality being discharged to Des Plaines River waters therefore, to re-route the Eastside’s WWTP discharges to the same waters would be a wasted cost of approximately \$1,500,000 without any additional water quality improvements. *Id.* at 7-8.

Joliet also maintains that its proposed “copper and fluoride limits as applied to the discharge into the designated receiving water will be protective of aquatic life, human health, and the environment as a whole” and consistent with federal law. Proposal at 1, 9-10.

Joliet’s proposal, including its statement of reasons and the full text of the proposed site-specific rule, is available through the Clerk’s Office in Chicago (312-814-3620) and on the Board’s Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)) using the Clerk’s Office On-Line or “COOL.”

### **MOTION TO WAIVE SIGNATURE REQUIREMENT**

Joliet asks the Board to waive the requirement that at least 200 persons sign a petition supporting the site-specific rulemaking proposal. The requirement, which applies only when the rulemaking proponent is not the Agency or the Illinois Department of Natural Resources, is set forth in the Environmental Protection Act (Act) (415 ILCS 5/28(a) (2006)) and in the Board’s

procedural rules (35 Ill. Adm. Code 102.202(f), 102.210). However, the Act gives the Board discretion to waive the signature requirement when accepting a proposal. *See* 415 ILCS 5/28(a) (2006).

In its motion, Joliet states that of the Eastside WWTP's approximately 90,000 customers, there are 26,163 residential, 1,620 commercial, and 57 industrial connections. Motion at 1. Joliet notes that the Board has recently waived the 200-signature requirement in a site-specific rulemaking. *Id.* at 2, citing Proposed Site Specific Waste Regulation Applicable To Silbrico Corporation (35 Ill. Adm. Code Part 810), R06-8 (Sept. 1, 2005). Further, according to Joliet, granting this motion is "in the public interest because Joliet's Eastside WWTP serves a very important public and health interest to the residents, commercial and industrial users." *Id.*

### **DISCUSSION**

The Board accepts Joliet's site-specific rulemaking proposal for hearing. Joliet's proposal satisfies the content requirements of the Act and the Board's procedural rules (35 Ill. Adm. Code 102.210), with two exceptions. First, as Joliet notes, the proposal lacks a petition signed by at least 200 persons. The Board, however, grants Joliet's motion to waive the 200-signature requirement. Second, the proposal does not address the applicability of or provide the information requested in the "published study or report" requirement of Section 102.210(c) (35 Ill. Adm. Code 102.210(c)). The Board requests that Joliet address Section 102.210(c), or its inapplicability, in writing prior to or at hearing. The Board directs the hearing officer assigned to proceed expeditiously under the rulemaking provisions of the Act (415 ILCS 5/27, 28 (2006)) and the Board's procedural rules (35 Ill. Adm. Code 102).

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 21, 2007, by a vote of 4-0.



John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board