

ILLINOIS POLLUTION CONTROL BOARD
July 26, 2007

IN THE MATTER OF:)
)
PROPOSED EXTENSION OF ADJUSTED)
STANDARD APPLICABLE TO ILLINOIS-)
AMERICAN WATER COMPANY’S ALTON) AS 07-02
PUBLIC WATER SUPPLY FACILITY) (Adjusted Standard –Water)
DISCHARGE TO THE MISSISSIPPI RIVER)
UNDER 35 ILL. ADM. CODE 304.124,)
304.106, AND 302.203)

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

The Board today sets this matter for hearing, determining, within “its discretion . . . that a hearing would be advisable” as provided in Section 28.1 of the Environmental Protection Act, 415 ILCS 5/28.1 (2006), and the Board’s procedural rules at 35 Ill. Adm. Code 104.422(a)(3). Additionally, although petitioner has not formally requested hearing following its receipt of the Recommendation that adjusted standard be denied, the hearing officer has advised the Board that petitioner wishes to present its case at hearing.

BACKGROUND

On October 31, 2006, Illinois-American Water Company (Illinois-American) filed its petition for extension of an existing adjusted standard applicable to Illinois-American’s public water supply treatment facility in Alton, Illinois (Alton facility). Petition of Illinois-American Water Company's Alton Public Water Supply Replacement Facility Discharge to the Mississippi River for Adjusted Standard From 35 Ill. Adm. Code 304.124, 304.106, and 302.203, AS 99-6 (Oct. 19, 2000). AS 99-6, scheduled to expire on October 16, 2007, provides that the effluent standards for offensive discharges, total suspended solids (TSS), and total iron do not apply to the discharges from the Alton facility. *See* 35 Ill. Adm. Code 304.106, 304.124. Also pursuant to AS 99-6, the general use water quality standard for offensive discharges shall not apply to a one-mile stretch of the Mississippi River that receives effluent from the Alton facility and is immediately downstream from the Alton facility’s discharge. *See* 35 Ill. Adm. Code 304.203.

In AS 99-6, the Board granted Illinois-American an adjusted standard so that it could implement a sediment reduction project in the Piasa Creek watershed (Piasa Creek Watershed Project), expected to reduce soil loading into the Mississippi River by two tons for every ton of solids in the Alton facility’s effluent. In granting the AS 99-6 petition, the Board required Illinois-American to assess the effectiveness of the project at the October 2005 five-year mark, and imposed a seven-year sunset provision in case the project failed to meet expectations.

The Board accepted the AS 07-2 petition by order of December 7, 2006. Petition of Illinois-American Water Company's Alton Public Water Supply Replacement Facility Discharge to the Mississippi River for Adjusted Standard From 35 Ill. Adm. Code 304.124, 304.106, and

302.203, AS 07-2 (December 7, 2006). Illinois-American stated that the project had already achieved its goal, saving 6,600 tons of soil, four years ahead of schedule. Illinois-American also observed that the project has won awards and exceeded its goals in reducing total iron loading from the Piasa Creek watershed. For these reasons, in this petition Illinois-American asked the Board to extend the current adjusted standard indefinitely. *Id.*, slip op. at 1.

In the December 7, 2006 order, the Board also noted that Illinois-American had waived its opportunity to have a hearing on this petition. But, the Board did not rule out the possibility of a hearing on the petition, stating that “[w]hether the Board will nevertheless order a hearing depends on several factors”. *Id.*, slip op. at 2.

The Illinois Environmental Protection Agency (Agency) sought and received two extensions of time to file its Recommendation to the petition. *See* 415 ILCS 5/28.1 (2006) and 35 Ill. Adm. Code 104.416. Illinois-American filed an amended petition for adjusted standard on April 2, 2007. In this filing, Illinois-American Water stated it “waives a hearing on its request for extension of its adjusted standard, except to the extent that the Petition is opposed and the relief requested herein by Illinois-American Water may be granted in part only or denied”. Am. Pet. at para. 120, p. 45.

The Agency sought and received a third extension of time to file its Recommendation. The Recommendation in opposition to grant of the petition was timely filed on June 18, 2007. Petitioner timely filed its response in support of grant of its petition on July 2, 2007. Petitioner did not include a specific request for hearing in its response.

HEARING

The parties’ recent filings concerning this petition present differing factual as well as legal contentions concerning the merits of Illinois-American’s extension request. While the Board has yet to complete a detailed technical review, the Board is convinced that hearing on this petition is advisable in the interests of assembling a complete record for Board decision. Additionally, although petitioner has not formally requested hearing following its receipt of the Recommendation that adjusted standard be denied, the hearing officer has advised the Board that petitioner wishes to present its case at hearing.

The Board directs the hearing officer to expeditiously schedule and hold a hearing. Prior to hearing, the Board intends to have its hearing officer issue an order detailing specific issues for the parties to address. The hearing officer reports that the scheduled October 17, 2007 sunset of the AS 99-6 adjusted standard concerns Illinois-American. The Board will make every effort to issue its final opinion and order in this matter before this date, noting that the Board’s currently scheduled October meetings are October 4 and 18, 2007. In so stating the Board is aware that this will require the expeditious scheduling and completion of hearing, and may require simultaneous briefing by the parties on an expedited schedule.

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 July 26, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board