

ILLINOIS POLLUTION CONTROL BOARD
September 20, 2001

IN THE MATTER OF:)
)
PETITION OF RHODIA, INC., AND THORN) AS 01-9
CREEK BASIN SANITARY DISTRICT FOR) (Adjusted Standard – Water)
AN ADJUSTED STANDARD FROM 35 ILL.)
ADM. CODE 302.208 AND 304.105)
)
ORDER OF THE BOARD (by N.J. Melas):

On April 30, 2001, petitioners Rhodia, Inc. (Rhodia) and Thorn Creek Basin Sanitary District (TCBSD) filed a petition for an adjusted standard from Board regulations at 35 Ill. Adm. Code 302.208 and 304.105. Rhodia is seeking to expand its silica plant in Chicago Heights, Cook County, Illinois and consequently increase its discharges of total dissolved solids (TDS) and sulfates to the TCBSD treatment plant. The TCBSD treatment plant discharges to Thorn Creek.

On July 26, 2001, the Board issued an order requesting additional information from petitioners regarding their operations. On August 27, 2001, petitioners filed an amended petition and an accompanying response to the July 26 order. The Board addresses four issues in this order related to the amended petition: a trade secret determination, joinder of a necessary party, filing defects, and an extension of time for the Agency to file its recommendation.

TRADE SECRET DETERMINATION

As part of the August 27 amended petition, Rhodia filed a one-page article with an accompanying claim letter seeking trade secret protection for the article. Rhodia included a statement of justification. Petitioners also filed a waiver of the decision deadline pursuant to 35 Ill. Adm. Code 130.204.

The Board has reviewed Rhodia's trade secret claim and the statement of justification pursuant to the Board's Procedures for Identifying Articles that Represent Trade Secrets. *See* 35 Ill. Adm. Code 130.200 *et seq.* We have not received a request for the claimed information nor have we received an objection to the claim.

The Board finds that the statement of justification is sufficient according to the requirements of 35 Ill. Adm. Code 130.203. The Board also finds that the article in question is a trade secret because it meets the standards specified at 35 Ill. Adm. Code 130.208(a) and (b).

Our determination herein may be reviewed pursuant to 35 Ill. Adm. Code 130.214. The Board will protect the article subject to Subpart C of Part 130 of the Board's procedural regulations until the Board receives official notification of a final order by a reviewing body that reverses the Board's determination and that is not subject to further appeal.

There is no statutory or regulatory deadline for decisions in adjusted standard cases and, as a result, the Board strikes petitioners' waiver of decision as unnecessary.

Rhodia also requested that the article be protected as non-disclosable. As the Board has determined that the article is a trade secret, Rhodia's request to protect the article as non-disclosable is moot.

JOINDER OF ADDITIONAL RESPONDENTS

In the July 26, 2001 order, the Board asked petitioners to provide the following information:

The Board previously granted an adjusted standard from its TDS water quality standard and set a standard of 2,100 mg/L for parts of Deer Creek and Thorn Creek. The part of Thorn Creek at issue there stretched from the confluence with Deer Creek to the United States Geological Survey (USGS) Station, corresponding closely to "Reach 2" in the instant petition. *See In re Petition of NutraSweet Company and Consumers Illinois Water Company, AS 89-3 (Feb. 28, 1991)*. Petitioners are requesting a TDS water quality standard of 2,620 mg/L in Reach 2 of Thorn Creek. Petitioners must address the impact that Rhodia's increased discharge would have on the ability of the petitioners in AS 89-3 to meet obligations under AS 89-3. *See 35 Ill. Adm. Code 104.406(a)*.

The Board notes for the record that the NutraSweet facility in University Park, Illinois is now owned by Takasago Corporation (U.S.A.) and is now known as the Takasago facility. The Takasago facility sends its effluent to the Consumers Illinois Water Company (CIWC) before it is discharged into Deer Creek. *See In re Takasago Corporation (U.S.A.), AS 00-4 (Apr. 20, 2000)*.

Petitioners responded that their "request for relief will have no impact whatsoever" on the relief that NutraSweet (now Takasago) received in AS 89-3. Amended petition at 22-23. Petitioners seem to assume that Takasago will be subject to a TDS water quality standard of 2,620 mg/L if the Board grants the relief requested herein as opposed to the TDS water quality standard of 2,100 mg/L that the Board granted in AS 89-3.

Section 101.403 of the Board's procedural regulations addresses joinder of parties. It provides, in pertinent part:

- a) The Board, on its own motion or the motion of any party, may add a person as a party to any adjudicatory proceeding if:

- 2) The person who is not already a party to the proceeding has an interest that the Board's order may affect.

The Board notes that it did not grant the adjusted standard that Takasago sought in docket AS 00-4. The relief that it sought had already been granted to CIWC and NutraSweet in docket AS 89-3 and the relief granted in docket AS 89-3 applies to the Takasago facility due to its relationship with CIWC. See *In re Takasago Corporation (U.S.A.)*, AS 00-4 (Apr. 20, 2000), slip op. at 5. Nevertheless, the Board finds that the relief that it may provide to Rhodia and TCBSD in Reach 2 may affect the Takasago facility and CIWC.

The Board, on its own motion, adds Takasago Corporation (U.S.A.) and CIWC as respondents to this proceeding. As such, they are entitled to receive all documents filed by the other parties in this matter under 35 Ill. Adm. Code 101.304, except, of course, the article protected by the trade secret determination.

FILING DEFECTS

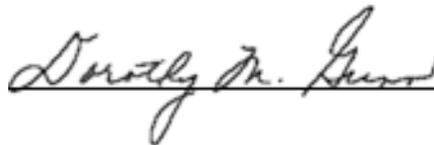
In filing the amended petition, petitioners neglected to file a notice of filing and proof of service. See 35 Ill. Adm. Code 101.304. In order for the Board to accept the amended petition, petitioners must file the amended petition with the proper notice of filing and proof of service within 10 days. Petitioners need only send one copy of the properly-filed amended petition to the Board including proof of service of the amended petition on all parties: the Agency, Takasago, and CIWC.

AGENCY RECOMMENDATION

The Board will again extend the deadline for receipt of the Agency's recommendation in this matter. The Agency's recommendation must be filed no later than November 30, 2001.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the above order was adopted on September 20, 2001, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board