

ILLINOIS POLLUTION CONTROL BOARD
June 3, 1976

OLIN CORPORATION,)	
)	
Petitioner,)	
)	
)	
v.)	PCB 73-509
)	PCB 73-510
ENVIRONMENTAL PROTECTION)	Consolidated
AGENCY,)	
)	
Respondent.)	

Randall Robertson, Lueders, Robertson & Konzen, appeared on behalf of Petitioner.

James M. Bumgarner, Attorney at Law, appeared on behalf of Respondent.

OPINION AND ORDER OF THE BOARD (by Mr. Goodman):

On December 5, 1973, Olin Corporation (Olin) filed two petitions with the Pollution Control Board (Board). The first sought review of the Environmental Protection Agency's denial of Olin's wastewater collection and treatment facilities (log 3052-73 through 3062-73) permit applications. The second petition sought review of the classification of Wood River and the East Fork of the Wood River as a Restricted Use Water (Secondary Contact and Indigenous Aquatic Life Waters) pursuant to Rule 302(k) of Chapter 3 of the Board's Regulations. That petition was amended November 3, 1975, to seek, in the alternative, variance from the copper standards. Both matters were consolidated by Board Order on December 13, 1973. The Agency filed its Answer to the first petition on January 8, 1974. An Agency Recommendation was received December 3, 1975. Eight hearings were held.

Olin's permit applications were denied on September 14, 1973 (Ex. A) due to violations of water quality standards. Olin contends that Rule 408 (205) of the Water Regulations (Secondary Contact and Indigenous Aquatic Life Standards) rather than Rule 203 Standards are applicable to Wood River and the East Fork of the Wood River from Route 140 to the Mississippi pursuant to Rule 302(k). The Board must deny Olin's Permit Appeal.

At no time have the bodies of water described herein been designated Secondary Contact and Indigenous Aquatic Life Waters. The Board is of the opinion that, in order for a water of the State of Illinois to be so classified, the Board's regulatory process with the requisite public notice must be pursued. No regulatory proceeding has designated the Wood River and the aforementioned portion of the East Fork of the Wood River as a Secondary Contact Water. Therefore the proper water quality standards for these waters are those found in Rule 203. Petitioner admits that the standard for copper is being violated. Therefore, the Agency's denial of Olin's permits was proper.

The same principles apply to Olin's Petition for Reclassification of these waters. As that proceeding did not conform to the procedures for Regulatory and other nonadjudicative hearings, the Petition must be dismissed. In further support of this position, the Board notes that Rule 301 of the Water Regulations states that "All waters of the State of Illinois are designated for general use except those designated as Secondary Contact and Indigenous Aquatic Life Waters." Rule 302 specifically enumerates the exceptions to the general rule. 302(k) then provides the standards under which other waters may become exceptions. However, a reclassification of a water from general to secondary contact affects all persons in the State. It is mandatory that proper regulatory proceedings be adhered to when seeking such a reclassification. See Modine v. EPA, Dissenting Opinion (July 11, 1974), 13 PCB 27.

Variance

In the alternative, Olin seeks an extension of the variance granted in PCB 73-484. That proceeding granted Olin variance from Rule 203(f) of the Water Regulations for the discharge of copper until December 19, 1975. Olin's manufacturing processes and wastewater treatment facilities are described in that Opinion and will not be repeated here. Olin contends and the Agency agrees that Olin has continuously made good faith efforts to correct its copper problem. Olin has substantially complied with all conditions imposed in the variance grant.

The Agency states in its Recommendation that no economically feasible method is available for Olin to consistently meet the 0.02 mg/l copper standard. Petitioner states that the only method available is to shut down or greatly diminish its East Alton Plant operations. The Agency notes that Olin and the Agency have contacted Dr. R.E. Wing of the Northern Regional Laboratory Agriculture Research Service, U.S. Department of Agriculture concerning the use of insoluble starch xanthate to remove heavy metals from water. As of

October, 1975, Dr. Wing had not been successful; however, he believes the process may soon be ready for commercial consumption.

The Board is disposed to grant Olin the relief requested subject to certain conditions.

This Opinion constitutes the Board's findings of fact and conclusions of law in these matters.

ORDER

It is the Order of the Board that:

1. Olin Corporation's Petition for review of the Agency's denial of Petitioner's wastewater collection and treatment facilities' permit applications (log 3052-73 through 3062-72) at its East Alton, Illinois Plant be and is, hereby, denied.

2. Olin Corporation's "Petition for Reclassification of Wood River and the East Fork of the Wood River from Route 140 to the Mississippi River" as a Secondary Contact and Indigenous Aquatic Life Water be and is, hereby, denied.

3. Olin Corporation be granted variance from Rule 203(f) of Chapter 3 solely for the discharge of copper, for a period of 5 years commencing from December 19, 1975 subject to the following conditions:

a) That Petitioner's discharges from outfalls 001 through 015 (zones 6 and 17) not exceed 0.5 milligrams of copper per liter;

b) That Petitioner shall continue to investigate means of controlling its effluent discharge of copper;

c) That Petitioner submit quarterly progress reports to the Agency on its investigation;

d) That Petitioner report to the Board and Agency on the feasibility of using starch xanthate within 90 days after it becomes commercially available; and immediately initiate and promptly complete a program to upgrade effluent quality upon the discovery of an economically feasible method of treatment to reduce copper to the required limit set forth in Chapter 3;

e) That within 28 days after the date of the Board Order

herein Petitioner execute and forward to the Illinois Environmental Protection Agency, Variance Section, 2200 Churchill Road, Springfield, Illinois, 62706 and to the Pollution Control Board a certification of acceptance and agreement to be bound to all terms and conditions of the variance, the form of said certification to be as follows:

CERTIFICATION

(I, We) _____ having read and fully understood the Order of the Illinois Pollution Control Board in PCB 73-510 hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

SIGNED _____

TITLE _____

DATE _____

Mr. Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 3RD day of June, 1976 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board