

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

JAN 22 2015

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)

AS 15-003
(Adjusted Standard)

PETITION OF THE CITY OF)
COLLINSVILLE FOR AN ADJUSTED)
STANDARD FROM)
35 ILL. ADMIN. CODE 620.410)
FOR CERTAIN CONSTITUENTS)



ORIGINAL

NOTICE

John Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Frank H. Hackmann
Attorney No. 109064
Dentons US LLP
One Metropolitan Square
Suite 3000
St. Louis, MO 63102

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board an **APPEARANCE** and **RECOMMENDATION TO PETITION FOR ADJUSTED STANDARD**, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

James M. Kropid
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: January 20, 2015

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE
JAN 22 2015

IN THE MATTER OF:

)
)
)
)
)
)
)
)
)
)

AS 15-003
(Adjusted Standard)

STATE OF ILLINOIS
Pollution Control Board

PETITION OF THE CITY OF
COLLINSVILLE FOR AN ADJUSTED
STANDARD FROM
35 ILL. ADMIN. CODE 620.410
FOR CERTAIN CONSTITUENTS

APPEARANCE

The undersigned hereby enters his appearance in the above-captioned matter as
counsel for the Illinois Environmental Protection Agency.

Respectfully submitted,


James M. Kropid

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62702-4059
217/782-5544
217/782-9143 (TDD)
Dated: January 20, 2015

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE
JAN 22 2015

IN THE MATTER OF:)
)
) AS 2015-003)
) (Adjusted Standard))
)
 PETITION OF THE CITY OF)
 COLLINSVILLE FOR AN ADJUSTED)
 STANDARD FROM)
 35 ILL. ADM. CODE 620.410)
 FOR CERTAIN CONSTITUENTS)

RECOMMENDATION TO PETITION FOR ADJUSTED STANDARD

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA"), by one of its attorneys, James Kropid, Assistant Counsel, and, pursuant to 35 Ill. Adm. Code 104.416, hereby submits a recommendation to the Illinois Pollution Control Board ("Board") in response to the Petition of the City of Collinsville ("Petition") filed by the City of Collinsville ("Petitioner") on December 4, 2014. The Petitioner is seeking an adjusted standard from the 35 Ill. Adm. Code Part 620.410 Class I groundwater standards at the City of Collinsville Landfill located in Madison County, Illinois. The adjusted standard would be applicable to the following parameters: mecoprop ("MCP"), p-dioxane (also known as 1,4-dioxane), total dissolved solids ("TDS"), chloride, iron, manganese, sulfates, pH, and perchlorate. The proposed limits and proposed sampling frequency for these parameters are stated in the Petition (Petition Exhibit 8.)

The Illinois EPA recommends that the Board grant the adjusted standard request. In support and in explanation of this recommendation, the Illinois EPA states as follows:

BACKGROUND

1. The City of Collinsville Landfill, also known as the Collinsville Municipal Landfill ("Landfill"), is located along Lebanon Road outside the city limits of Collinsville, Illinois. It is approximately 22 acres in area.

2. The Petitioner operated the Landfill as a regulated solid waste landfill from the early 1970's until 1984.

3. The Landfill stopped accepting waste in 1984 and the Illinois EPA issued closure certification in October of 1986.

4. The Landfill is currently subject to post-closure care. The post-closure care period began on October 23, 1986.

5. Since 1999, the Petitioner has been investigating post-closure exceedances of the groundwater standards at the Landfill. The groundwater is currently impacted by a variety of organic and inorganic materials.

6. The Petitioner is seeking to obtain certification of completion of post-closure care at the Landfill. Exceedances of the groundwater standards must be addressed and resolved prior to obtaining said certification.

7. To obtain relief for the Landfill, the Petitioner has filed a Petition requesting an adjusted standard from 35 Ill. Adm. Code Part 620.410.

8. The Board has not yet accepted the Petition, which was filed on December 4, 2014, and has made no finding as whether the Petition satisfies the content requirements of 35 Ill. Admin. Code 104.406. To date, no Hearing Officer has been appointed in this matter.

9. This recommendation is submitted pursuant to 35 Ill. Admin. Code 104.416, which requires the Illinois EPA to file a recommendation with the Board within 45 days after the filing of this Petition.

SECTION 104.406 FACTORS

10. In order for the Board to grant the request for an adjusted standard, the Petitioner must satisfactorily address all informational requirements set forth in Section 104.406 of the

Board's procedural regulations (35 Ill. Adm. Code 104.406). The Illinois EPA must respond to each issue raised by these requirements. Relevant to that point, the Petitioner has provided several draft versions of the Petition to the Illinois EPA for review and comment. Since February of 2011, numerous discussions and information exchanges concerning the issues associated with this adjusted standard have occurred between the Petitioner and the Illinois EPA. The Petitioner has satisfactorily addressed the questions and comments presented by the Illinois EPA during this period and the information used to do this has been incorporated into the Petition. This "pre-filing" review of the Petition explains the brevity in responding to the informational requirements.

Section 104.406(a) – Standard from which adjusted standard is sought

The Illinois EPA does not take issue with the Petitioner's statements on this subject.

Section 104.406(b) – Regulation of general applicability

The Illinois EPA does not take issue with the Petitioner's statements on this subject.

Section 104.406(c) – Level of justification

The Illinois EPA does not take issue with the Petitioner's statements on this subject. Elsewhere in the Petition, the Petitioner correctly notes that in the absence of a specific level of justification for seeking an adjusted standard, the Petitioner must meet the burden of proof as set forth in 35 Ill. Adm. Code 104.426(a). (Petition at 12.)

Section 104.406(d) – Petitioner's activities

The Illinois EPA does not take issue with the Petitioner's statements on this subject.

Section 104.406(e) – Efforts necessary to comply

The Illinois EPA does not take issue with the Petitioner's statements on this subject.

Section 104.406(f) – Proposed adjusted standard

The Illinois EPA does not take issue with the Petitioner’s narrative description of the proposed adjusted standard. However, there does not appear to be any specific proposed language for a Board order that would impose the standard. Furthermore, it is unclear as to whether the Petitioner is requesting that an adjusted standard be granted for picloram. Picloram is included in Exhibit 8, the “Summary of Proposed Adjusted Standards and Parameters to be Adjusted”, but there is no mention of picloram in the narrative description of the proposed adjusted standard or in the “proposed language” for a Board order that would impose the standard. That said, the Illinois EPA is in agreement with the proposed standards and the proposed sampling frequency for each of the parameters listed in Exhibit 8 and in Paragraph 17 of the Petition.

Section 104.406(g) – Quantitative and qualitative impact on the environment

With respect to groundwater, the Illinois EPA agrees with the Petitioner’s assertion that there would be no meaningful difference in off-site impacts between compliance with the regulation of general applicability and compliance with the proposed adjusted standard.

The Petitioner has authorized two groundwater or well water restriction ordinances that control the use of potable water sources within the city limits. (Petition Exhibit 2-1.) Ordinance Number 3746 authorized the Mayor of Collinsville to execute a Memorandum of Understanding with the Illinois EPA regarding the use of local groundwater or well water ordinances as environmental institutional controls. This Memorandum of Understanding was executed on April 25, 2006. Ordinance Number 3747 prohibits the installation or use of private groundwater wells for use as a potable water supply within the city limits, which includes the Landfill. Both Ordinances were approved in 2006 and remain in force. The Petitioner has the responsibility to

notify the Illinois EPA of any proposed changes to, or requests for variances from, these Ordinances.

Section 104.406(h) – Justification of the proposed adjusted standard

The impact of historical mining activities and the application of herbicides at the Landfill in accordance with federal and state regulations provide justification for the granting of the adjusted standard request as set forth in the Petition.

The Petition includes historical aerial photographs of the Landfill site documenting the past uses of the property that have resulted in adverse changes to the groundwater quality. (Petition Exhibit 1-2.) Review of the aerial photographs shows that the Landfill was constructed on closed or abandoned coal mine property. The aerial photographs show that while some closure activities were performed on the coal mining waste, the majority of the waste remained on the property and was used as cover material or for erosion control. Past coal mining operations produced “gob”, which is a coal mine waste that contains a high percentage of pyrite and other sulfide minerals. Sulfur-containing waste produces “acid mine drainage” when it is exposed to oxidation and brought into contact with groundwater. Acid mine drainage can serve as a source for inorganic exceedances, particularly for coal-related compounds like TDS, chloride, iron, manganese and sulfates when they occur as seeps from coal waste areas. Groundwater concerns at the Landfill appear to be limited to the extent of the “gob” area and the coal storage area. Sampling data submitted to the Illinois EPA since 2007 has consistently shown that parameters related to coal mining activities are present in the groundwater at concentrations above 35 Ill. Admin. Code 620.410 standards. (Petition Exhibit 5.) The cause of the elevated concentrations is the presence of coal mining waste that has remained on the property for more than 30 years prior to the opening of the Landfill.

Pursuant to amendments made to 35 Ill. Admin. Code 620.410 in 2012, the Petitioner was required to evaluate additional parameters at the Landfill. Of the thirty-one parameters required for analysis by the revised Class I groundwater standards, three compounds were detected: perchlorate, p-dioxane, and MCP. The Petitioner, as required by its permit, subsequently conducted four consecutive quarters of sampling for these compounds, identified the validity of their original detection, and established the background values that are included in this Petition. (Petition Exhibit 7.)

The Petitioner also determined that the presence of perchlorate, p-dioxane, and MCP was not associated with the operation of the Landfill. (Petition at 9.) Groundwater data shows perchlorate, p-dioxane, and MCP to be parameters of concern at downgradient monitoring wells. These wells are positioned in areas where past mining activities were conducted and where previous facility buildings were located. However, concentrations of these compounds are lower and below the proposed limits at the upgradient monitoring well (MW6), which is the well farthest away from these structures/past activities. (Petition Exhibit 7 at 22, 23.) The data provided by the Petitioner supports the assertion that the source of perchlorate is related to the explosives used in past mining operations and that the source of p-dioxane and MCP is related to the periodic post-closure application of herbicides at the Landfill.

Section 104.406(i) – Consistency with federal law

The Illinois EPA does not take issue with the Petitioner's statements on this subject.

Section 104.406(j) – Hearing

The Illinois EPA does not take issue with the Petitioner's statements on this subject.

Section 104.406(k) – Supporting documents

The Petitioner did not make a statement on this subject.

Section 104.406(l) – Additional Information

The Petitioner did not make a statement on this subject.

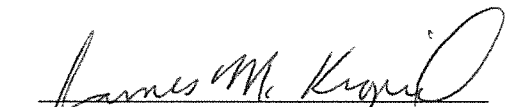
CONCLUSION

The Illinois EPA has no objection to the granting of this request. The proposed standards are deemed appropriate because of the nature and source and the groundwater at the Landfill and because water use restrictions have been placed on the site property. Furthermore, except for perchlorate, the other inorganic parameters are standard parameters that are included with the 35 Ill. Admin. Code 620.450(b) Coal Reclamation Groundwater Quality Standards and comply with the regulated values for underground or surface coal mining operations within the state.

FOR the reasons more fully set forth herein and in the Petition, the Illinois EPA respectfully recommends that the Petitioner's request for an adjusted standard be granted.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,



James M. Kropid
Assistant Counsel
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: January 20, 2015

This filing submitted on recycled paper.

CERTIFICATE OF SERVICE

I, the undersigned, hereby state that on January 20, 2015, I served the **APPEARANCE** and **RECOMMENDATION TO PETITION FOR ADJUSTED STANDARD**, by placing true and correct copies thereof in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with first class postage affixed, upon the following named persons:

John Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Frank H. Hackmann
Attorney No. 109064
Dentons US LLP
One Metropolitan Square
Suite 3000
St. Louis, MO 63102

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: January 20, 2015