

ILLINOIS POLLUTION CONTROL BOARD

July 26, 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 approximately 10.1 miles upstream of its confluence with the Little Calumet River.

BACKGROUND

Petitioners sought relief from the same Board regulations in an adjusted standard proceeding seven years ago. At that time, another company owned the Rhodia silica plant. In re Petition of Rhone-Poulenc Basic Chemicals Company and TCBSD (June 23, 1994, and August 11, 1994), AS 94-7. In this matter, petitioners seek to increase the loading of TDS and sulfates from the levels that the Board approved in 1994.

INFORMATIONAL SUFFICIENCY

The Board finds that the petition has not adequately addressed certain information sufficiency requirements required by the Board's rules at 35 Ill. Adm. Code 104.406. Specifically the petition fails to provide:

1. 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 (February 28, 1991), AS 89-3. 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).

2. Petitioners must describe the water pollution control equipment that Rhodia employs at its silica plant. If Rhodia does not employ any such equipment, Rhodia must state this in the amended petition. Petitioners also must tell the Board how many employees work at TCBSD. See 35 Ill. Adm. Code 104.406(d).
3. In order for the Board to develop conditions for petitioners similar to the relief provided in AS 94-7, petitioners must provide information from the Environmental Protection Agency (Agency) on its characterization of total maximum daily load (TMDL) limits in the stretches of Thorn Creek and the Little Calumet River at issue. Petitioners should explain how their proposal will affect TMDL limits in these stretches. If the Agency's characterization of TMDLs is not yet available, petitioners should explain. See 35 Ill. Adm. Code 104.406(d).
4. As justification, the petitioners allege that the cost of compliance would price Rhodia's silica product out of the market. The evidence that petitioners have presented on this point is insufficient. Petitioners are encouraged to submit as much relevant information as possible. The Board offers the following items as guidelines of types of information that petitioners may submit. However, these items are not an exhaustive list that will satisfy the requirements for Section 104.406(e) of the Board's regulations:
 - a. An analysis of market prices for precipitated silica products.
 - b. Although petitioners have discussed treatment options at the Rhodia plant, petitioners must also discuss treatment options at the TCSBD facility.
5. In AS 94-7, the Board set limits on TDS and sulfate discharges at 91,800 pounds per day (lbs/day) and 62,100 lbs/day, respectively, on a monthly average basis. In the instant petition, petitioners provide loading measurements in lbs/day on an annual basis. Petitioners must provide loading measurements in terms of a monthly average basis. See 35 Ill. Adm. Code 104.406(f).
6. Beginning in 2002, the relief proposed in the instant petition may also impact another facility, namely the Calumet Filtering Plant at 123rd Street, which is downstream of the area at issue on the Little Calumet River. The Metropolitan Water Reclamation District will divert overflows from Thorn Creek as part of its Thornton Quarry Water Retention Project, which is part of the Tunnel and Reservoir Plan (commonly known as the "Deep Tunnel"). Floodwater from the Thorn Creek and the Little Calumet River and will be diverted to Thornton Quarry via a tunnel. The floodwater will then be sent via another section of tunnel to the Calumet Filtering Plant at 123rd Street. The plant will disperse the floodwaters into the Little Calumet River at a slow rate. Petitioners must address the downstream impact of their proposal on the Calumet Filtering Plant. See 35 Ill. Adm. Code 104.406(f).

7. Petitioners characterize Thorn Creek as a “limited” to “moderate” aquatic resource with “fair” water quality. Petition at 15. However, the Agency’s Targeted Watershed Approach Report¹ and the Agency’s Illinois Annual Water Quality Report have targeted portions of Thorn Creek and the Little Calumet River as Priority 1 for improvement to a “Highly Valued Aquatic Resource”, even though these portions are not currently classified as highly valued. Petitioners must address how their proposal will affect the Agency’s targeted potential for improvement. See 35 Ill. Adm. Code 104.406(g).
8. In 1999, the Illinois Department of Resources published a four-volume report titled the “Thorn Creek Area Assessment”. The report describes the Ecosystems Program, “a cooperative process of public-private partnerships that are intended to merge natural resource stewardship with economic and recreational development”.² Thorn Creek Area Assessment at iv. Petitioners must indicate if Thorn Creek is in an Ecosystem Partnership area. If it is, petitioners must indicate if they participate or plan to participate in Thorn Creek Ecosystem Partnership. See 35 Ill. Adm. Code 104.406(g).

CONCLUSION

The Board therefore directs petitioner to address the information requirements of Section 104.406 of the Board’s rules in an amended petition. The amended petition must be filed with the Board by September 14, 2001, or it will be dismissed.

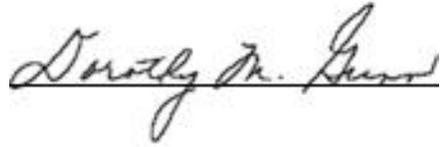
Pursuant to a prior Board order, the Agency had been required to file a recommendation in this matter by July 30, 2001. As the Board is now requiring petitioners to file an amended petition, the Board will extend the deadline for the Agency’s recommendation to October 29, 2001.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 26th day of July 2001 by a vote of 6-0.

¹ See Targeted Watershed Approach (visited July 13, 2001) <<http://www.epa.state.il.us/water/targeted-watershed/>>.

² See Conservation 2000 (visited July 19, 2001) <<http://www/dnr.state.il.us/orep/manage/partner.htm>>.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board