

ILLINOIS POLLUTION CONTROL BOARD  
January 11, 1995

IN THE MATTER OF: )  
 )  
PETITION OF GENERAL MOTORS CORPORATION ) R93-13  
TO AMEND 35 ILL. ADM. CODE 303.322 ) (Site-Specific  
(Site-Specific Regulation for Fluoride) ) Rulemaking)

Adopted Rule.                      Final Order.

OPINION AND ORDER OF THE BOARD (by E. Dunham):

This matter comes before the Board on the June 23, 1993 proposal of General Motors Corporation (GM) for site-specific relief from Section 303.322 (35 Ill. Adm. Code 303.322). On November 11, 1993, GM filed a motion for stay in this matter. The Board granted the motion for stay on November 18, 1993. The stay was lifted on February 3, 1994. The Board sent this proposed rule to first notice on September 1, 1994. The proposed amendments were published in the Illinois Register on September 16, 1994, at 18 Ill. Reg. 14219. The Board received a public comment from GM on October 20, 1994. The Board issued a second notice opinion and order on November 3, 1994. On December 13, 1994, the Joint Committee on Administrative Rules (JCAR) issued a Letter of No Objection to the proposed rule.

The Board's responsibility in this matter arises from the Environmental Protection Act (Act). (415 ILCS 5/1 et seq. (1992).) The Board is charged therein to "determine, define, and implement the environmental control standards applicable in the state of Illinois." (415 ILCS 5/5(b) (1992).) More generally, the Board's rulemaking charge is based on the system of checks and balances integral to the Illinois environmental governance: the Board bears responsibility for the rulemaking and principal adjudicatory functions; while the Illinois Environmental Protection Agency (Agency) has primary responsibility for administration of the Act and the Board's regulations. The latter includes administering today's proposed regulation.

GM is seeking to modify 35 Ill. Adm. Code 303.322, which was adopted in R78-7 on September 24, 1981, and established a site-specific water quality standard for fluoride in the unnamed tributary of the Vermilion River and the Vermilion River from the juncture of the unnamed tributary to the Indiana border. (Pet. at 1.) GM seeks to increase the fluoride water quality standard for the unnamed tributary and the Vermilion River from the juncture of the unnamed tributary to a point 0.9 miles downstream of that juncture from 5 mg/l to 10 mg/l. (Pet. at 2.)

A hearing in this matter was held on April 26, 1994, in Danville, Illinois before hearing officer Musette Vogel. At the hearing, GM presented three witnesses. Mr. Jim Schifo,

Environmental Manager of GM, described GM's operations, the wastewater treatment system and efforts by GM to control the fluoride discharge. Mr. Schifo also presented testimony on the costs for non-treatment options for compliance and presented statistical support for the 10 mg/l standard. Mr. James Etzel, testified on the prior rulemaking in R78-7 and the costs of various treatment options. Mr. Greg Bright testified on the studies he performed on the environmental impact of fluoride in the unnamed tributary. No members of the public attended the hearing.

GM filed a post-hearing brief on May 25, 1994. The Agency filed a post-hearing brief on June 8, 1994. The Agency has no objection to GM's petition.

#### BACKGROUND

GM's foundry is located in a rural industrial area between Danville and the Village of Tilton. (Pet. at 3.) The facility covers approximately 323 acres. (Tr. at 11.) The foundry manufactures ductile and grey iron castings for the automotive industries. (Pet. at 3.) The Danville Plant produces 800 tons (or 187,000 castings) of grey-iron, nodular iron and hi-carbon iron castings each day. (Tr. at 13.) The unit processes include cupola melting, sand molding, rough finishing and annealing of castings that are used in the production of intake manifolds, transmission parts and brake parts. (Pet. at 3.) The foundry employs more than 1,000 persons and contributes \$80 million to the Danville area economy. (Pet. at 2.) GM plans to idle the plant during the 1996 calendar year. (Tr. at 13.) GM intends to continue operating the foundry at reduced volumes in the meantime. (Tr. at 13.)

The facility draws its make-up water for cooling purposes from the Vermilion River. (Pet. at 3.) Approximately 10.4 million gallons of water are used for plant processes at the plant each day. (Tr. at 19.) The two major sources of wastewater are the cupolas and the dust collectors. (Tr. at 19.) Secondary sources of wastewater include noncontact cooling water and storm runoff water. (Tr. at 19.) Wastewater is treated and recycled through the system. (Tr. at 23.) The facility discharges 400,000 to 750,000 gpd wastewater including process wastewater and non-contact cooling water. (Pet. at 3.) The facility discharges to an unnamed ditch which flows into the Vermilion River. (Pet. at 7.)

The primary source of fluoride in the discharge is from the cupola emission control system due to the limestone flux. (Tr. at 31.) Increased recycling rates impact the levels of fluoride in the discharge. (Tr. at 28.) Fluoride discharge decreased after 1978 but increased after 1990. (Tr. at 31.) The increased wastewater recycle rate has increased the mass of fluoride

discharged by 78.37 percent as compared to 1978 levels. (Tr. at 31.) The limestone is considered to be the major contributor to the fluoride levels in the plant water system. (Tr. at 39.)

In 1977, GM was issued an NPDES permit. (Tr. at 24.) GM's current NPDES permit, issued on June 23, 1991, is currently under appeal before the Board. (See PCB 91-219.) The Board has granted a stay in the permit appeal until July 1, 1995 while the parties pursue negotiation of a settlement.

#### ENVIRONMENTAL IMPACT

The stream's small water shed includes industrial, residential and forested areas. (Tr. at 70.) The total slope of the stream is quite steep resulting in several short waterfalls over bedrock in some areas. (Tr. at 71.) Streams of this type have a limited habitat for supporting diverse fish and benthic invertebrate communities. (Tr. at 71.)

A study of the stream performed by Greg Bright of Commonwealth Biomonitoring demonstrates that fluoride is not a limiting factor on the aquatic life and the habitat structure is the principal limit to achieving a more balanced aquatic community. (Pet. at 7.) The study shows that there is no indication that fluoride or other "toxic substances" in the wastewater discharge contribute to the impaired condition of the stream. (Tr. at 75.) In addition, Mr. Bright also reports that a review of literature showed that increasing the fluoride limits to 10 mg/l would have no adverse impact on the fish or macroinvertebrates in the ditch. (Pet. at 8.)

A 1992 bioassessment study of the stream performed by Greg Bright of Commonwealth Biomonitoring shows that the aquatic community of the receiving stream has improved since studies done in the 1970s. (Tr. at 75.) Density and diversity of the aquatic life has increased and relatively pollution-intolerant forms now predominate. (Tr. at 75.) The warm water community present in the unnamed tributary and the Vermilion River are somewhat less sensitive to elevated fluoride levels than cold water communities. (Tr. at 77.)

GM contends that the increase in the fluoride limit will not adversely effect humans. Fluoride is not a living pathogen; therefore, it should have no effect on the use of the water body for human recreation. (Tr. at 78.) The receiving stream is too small to be used as a source of potable water. (Tr. at 78.) The Vermilion River is not presently used for potable water nor is any such use planned. (Tr. at 78.) However, the proposed concentration would not preclude the use of the Vermilion River as a source of potable water. (Tr. at 78.)

TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

Alternatives for compliance include additional treatment for fluoride, discharging directly to the Vermilion River or using alternate sources of limestone. Many of the options considered were the same options reviewed in the R78-7 rulemaking which granted GM a site-specific fluoride level of 5 mg/l.

One option for compliance reviewed by GM for compliance was to discharge wastewater directly to the Vermilion River and obtain a mixing zone effluent limit. (Tr. at 45.) Due to the distance and the topography of the area installation of the drainage tile would be extremely expensive and difficult. (Tr. at 45.) This option would not decrease the quantity of fluoride discharged. (Tr. at 46.) Fluoride would be discharged directly to the Vermilion River rather than the unnamed tributary. (Tr. at 46.)

Another option is to obtain an alternate source of limestone with a lower fluoride content. GM currently uses 23,040 tons of limestone a year at a cost of \$120,960. (Tr. at 46.) Limestone is currently obtained from a source six miles from the Danville facility. (Tr. at 46.) It is difficult to determine the exact amount of fluoride content in limestone because it is not distributed evenly throughout the material. (Tr. at 47.) Fluoride levels are not considered critical to most uses of limestone and therefore are not usually monitored. (Tr. at 47.) GM is aware of one quarry in Michigan that routinely monitors the fluoride levels in its limestone. (Tr. at 47.) Obtaining limestone from this source would increase GM's cost for limestone by \$541,440 per year. (Tr. at 47.) Another potential source for low fluoride limestone is in Bloomington, Indiana. (Tr. at 47.) However, since the fluoride level is not routinely monitored at this quarry, it is not certain that the fluoride level will be consistently low and result in compliance. (Tr. at 47.)

Treatment of the wastewater using absorption on bone char, ion exchange with activated alumina or precipitation with high magnesium lime was also considered to reduce the fluoride level. (Tr. at 60.) However, none of these technologies could guarantee consistent compliance and the cost of each technology is extremely high with capital costs ranging from \$2,966,000 to \$11,440,000. (Tr. at 60.) In addition, each technology would produce large volumes of sludge which would require disposal at additional costs and also result in an adverse effect on the environment. (Tr. at 60.)

Based on analysis of historical data, GM contends that a fluoride limit of 10 mg/l will allow for long-term process and production variables. (Tr. at 52.)

SITE SPECIFICITY

At first notice the Board proposed additional language to the rule to grant relief to the petitioner without granting relief to other potential discharges in the same stream segment. The Board proposed language naming General Motors and limiting excess fluoride sources to GM's discharge alone.

GM objected to the language proposed by the Board at first notice and suggested that it be deleted or modified. (PC # 1.) GM argues that if GM were to sell the foundry to another company, the site-specific relief would not be available to the new company. (PC #1.) GM contends that the same costs, environmental factors and discharge standards would apply to another operator and there is no reason that the relief should be limited to GM as the operator of the facility. (PC #1.) GM recommends that the relief be tied to a specific location rather than the operator. (PC # 1.)

The Board agreed with the concerns raised by GM concerning the applicability of the proposed site-specific relief to subsequent purchasers of the facility. In the Board's second notice opinion and order, the Board modified the language of the proposed amendment to specify the location of the facility instead of the operator.

During the second notice comment period, JCAR recommended nonsubstantive changes to the language in the proposed rule. JCAR recommended changing "owned by General Motors Corporation on the effective date of this regulation" to include January 31, 1995 as the date certain. The Board accepts the changes recommended by JCAR and adopts those changes into the adopted rule.

CONCLUSION

The Board agrees that site-specific relief is appropriate, based on the record of this proceeding. Alternatives for compliance with the current site-specific standard of 5 mg/l are technically infeasible and economically unreasonable. The proposed standard of 10 mg/l will not have an adverse effect on the environment.

ORDER

The Board hereby adopts the following amendments to 35 Ill. Adm. Code 303.322. The Clerk of the Board is hereby directed to cause the filing of these amendments with the Administrative Code Unit of the Secretary of State's Office.

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE C: WATER POLLUTION  
 CHAPTER I: POLLUTION CONTROL BOARD

PART 303  
 WATER USE DESIGNATIONS AND SITE SPECIFIC  
 WATER QUALITY STANDARDS

SUBPART A: GENERAL PROVISIONS

Section  
 303.100 Scope and Applicability  
 303.101 Multiple Designations  
 303.102 Rulemaking Required

SUBPART B: NONSPECIFIC WATER USE DESIGNATIONS

Section  
 303.200 Scope and Applicability  
 303.201 General Use Waters  
 303.202 Public and Food Processing Water Supplies  
 303.203 Underground Waters  
 303.204 Secondary Contact and Indigenous Aquatic Life Waters

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE SPECIFIC  
 WATER QUALITY STANDARDS

Section  
 303.300 Scope and Applicability  
 303.301 Organization  
 303.311 Ohio River Temperature  
 303.312 Waters Receiving Fluorspar Mine Drainage  
 303.321 Wabash River Temperature  
 303.322 Unnamed Tributary of the Vermilion River  
 303.323 Sugar Creek and Its Unnamed Tributary  
 303.331 Mississippi River North Temperature  
 303.341 Mississippi River North Central Temperature  
 303.351 Mississippi River South Central Temperature  
 303.352 Unnamed Tributary of Wood River Creek  
 303.353 Shoenberger Creek; Unnamed Tributary of Cahokia Canal  
 303.361 Mississippi River South Temperature  
 303.430 Unnamed Tributary to Dutch Creek  
 303.431 Long Point Slough and Its Unnamed Tributary  
 303.441 Secondary Contact Waters  
 303.442 Waters Not Designated for Public Water Supply  
 303.443 Lake Michigan

SUBPART D: THERMAL DISCHARGES

Section  
 303.500 Scope and Applicability  
 303.502 Lake Sangchris Thermal Discharges

## 303.Appendix A References to Previous Rules

## 303.Appendix B Sources of Codified Sections

AUTHORITY: Implementing Section 13 and authorized by Section 27 of the Environmental Protection Act (415 ILCS 5/13 and 27).

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 27, p. 221, effective July 5, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 5 Ill. Reg. 11592, effective October 19, 1981; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 7 Ill. Reg. 8111, effective June 23, 1983; amended in R87-27 at 12 Ill. Reg. 9917, effective May 27, 1988; amended in R87-2 at 13 Ill. Reg. 15649, effective September 22, 1989; amended in R87-36 at 14 Ill. Reg. 9460, effective May 31, 1990; amended in R86-14 at 14 Ill. Reg. 20724, effective December 18, 1990; amended in R89-14(C) at 16 Ill. Reg. 14684, effective September 10, 1992; amended in R92-17 at 18 Ill. Reg. at 2981 effective February 14, 1994; amended in R91-23 at 18 Ill. Reg. 13457, effective August 19, 1994; amended in R93-13 at \_\_\_\_ Ill. Reg. \_\_\_\_\_ effective \_\_\_\_\_

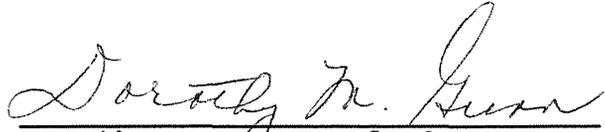
## Section 303.322 Unnamed Tributary of the Vermilion River

The fluoride standard of Section 302.208 shall not apply to waters of the State which are located from the point of a discharge from the foundry facility located at the intersection of Interstate 74 and G Street in Danville, Illinois, owned by General Motors Corporation on January 31, 1995 to an unnamed tributary of the Vermilion River, said point being located 3900 feet south of the Vermilion River, 1900 feet north of I-74, at 40 < 6'35" north latitude and 87 < 69'52" west longitude, to the confluence of said unnamed tributary with the Vermilion River; and from there downstream to its juncture with the Indiana state border a point 0.9 river miles downstream of the juncture at the crossing of a Norfolk and Western Railroad Bridge. Fluoride levels in such waters as caused by the discharge from the foundry facility shall meet a water quality standard for fluoride (Storet Number 00950) of 510 mg/l.

(Source: Amended at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 17<sup>th</sup> day of January, 1995, by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board