

ILLINOIS POLLUTION CONTROL BOARD  
August 30, 1990

IN THE MATTER OF: )  
 )  
THE PETITION OF BORDEN CHEMICALS )  
AND PLASTICS OPERATING LIMITED )  
PARTNERSHIP (FORMERLY BORDEN )  
CHEMICAL COMPANY) FOR A SITE- ) R86-14  
SPECIFIC RULE CHANGE REGARDING ) (Rulemaking)  
WASTEWATER DISCHARGES INTO AN )  
UNNAMED TRIBUTARY OF LONG )  
POINT SLOUGH )

PROPOSED RULE

SECOND NOTICE

OPINION AND ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board on a petition filed March 31, 1986 by Borden Chemicals Company, now before the Board as Borden Chemicals and Plastics Operating Limited Partnership ("Borden"). (See Order of August 4, 1988.) Borden seeks site-specific relief from the Board's effluent limitations for total dissolved solids ("TDS") and for chloride and from the requirement that no effluent shall cause a violation of applicable water quality standards. 35 Ill. Adm. Code 302.208 and 304.105. Borden's discharges originate at its Illiopolis, Illinois plant and are primarily attributable to wastewater from the air pollution control equipment which Borden began operating in 1978.

On June 7, 1990, the Board adopted for second First Notice, its Proposed Rule, Opinion and Order in this site-specific rulemaking. Notice was published in the Illinois Register as Part 303.431 at 14 Ill. Reg. 9784, effective June 22, 1990 and Part 304.211 at 14 Ill. Reg. 9700, effective also June 22, 1990. The 45-day comment period ended on August 6, 1990. The Board has received comments from both the Illinois Environmental Protection Agency ("Agency") and Borden. It is on this basis that the Board now proceeds to Second Notice.

Procedural History

The merit hearing was held on December 10, 1986 in Springfield, Illinois. The Economic Impact Study ("EcIS") was filed by the Department of Energy and Natural Resources ("DENR") on October 17, 1988. The hearing on the EcIS was held on January 10, 1989. On February 22, 1989, the Agency filed its comments and Borden filed its Response to Hearing Officer's Request for Information. The Board's First Notice Opinion and Order was issued on February 8, 1990. On April 12, 1990, the Agency submitted comments to the Board's First Notice Opinion and

Order. On April 18, 1990, Borden filed its Response to the Agency Comments to First Notice. As a result of First Notice Comments, the Board deemed it appropriate to issue a second First Notice Opinion and Order on June 7, 1990, to which the Agency and Borden responded on August 6, 1990. On August 8, 1990, comments were also received from the Administrative Code Unit of the Office of the Secretary of State suggesting minor language changes.

### Discussion

Three principal issues were raised in the second First Notice comments: (1) the particular section(s) of the Board's regulations which should be amended to provide site-specific relief; (2) the specific numeric limitations for chloride and total dissolved solids ("TDS"); and (3) the use of average monthly limitations for these discharges. The Board will address each of these issues separately.

#### 1. Form of Regulatory Relief

In the second First Notice Opinion and Order dated May 24, 1990, the Board proposed amendments to the water quality provisions of 35 Ill. Adm. Code 303 and to the effluent standards of 35 Ill. Adm. Code 304. This represented a change from the Board's First Notice Opinion and Order of February 8, 1990, which provided regulatory relief by amending only Part 304 Effluent Standards. The second First Notice proposal specifically incorporated the Agency's suggestions in First Notice Comments filed April 12, 1990 that: (1) relief should be structured in the form of amendments to both Part 303 and Part 304; and (2) monthly average effluent limitations should be established in addition to the specified maximum daily concentrations. (See R86-14, second First Notice Opinion and Order, pp. 2-4, May 24, 1990.)

The second First Notice proposal provided new Section 303.431 and 304.211 as follows:

#### Section 303.431\* Long Point Slough and Its Unnamed Tributary

The general use water quality standards for total dissolved solids and for chloride contained in Section 302.208 shall not apply to Long Point Slough and its unnamed tributary, which receive discharges from the Illiopolis, Illinois facility of Borden Chemicals and Plastics Operating Limited Partnership, from the outfall of that facility to the point of the confluence of the unnamed tributary downstream with the Sangamon River. Instead this water shall comply with a total dissolved solids standard of 2,500 mg/l and a chloride standard of 800 mg/l.

Section 304.211 Discharges From Borden Chemicals and  
Plastics Operating Limited Partnership  
Into an Unnamed Tributary of Long Point  
Slough

The effluent standards for total dissolved solids and chloride discharged from the Illiopolis, Illinois facility of Borden Chemicals and Plastics Operating Limited Partnership into an unnamed tributary of Long Point Slough shall comply with the following effluent limitations as measured at the point of discharge to the unnamed tributary:

Total Dissolved Solids	2,500 mg/l daily maximum 2,200 mg/l monthly average
Chloride	800 mg/l daily maximum 700 mg/l monthly average

In comments filed on August 6, 1990, the Agency suggested that, in lieu of new Sections 303.431 and 304.211 above, amendment of Part 303 alone "adequately addresses the changes in both water quality and effluent standards applicable to Borden's Illiopolis facility." Agency Recommendation, p. 3. The Agency recommended structuring the requested relief with the following regulatory language:

Section 303.431 Long Point Slough and Its  
Unnamed Tributary

- a. This second applies only to Long Point Slough and its unnamed tributary from the point of Borden Chemicals and Plastics Operating Limited Partnership's Illiopolis Plant's discharge to the confluence of Long Point Slough and Old River.
- b. The General Use water quality standards for total dissolved solids and for chloride contained in Section 302.208 shall not apply to Long Point Slough and its unnamed tributary as described above in subsection (a). Instead, this water shall comply with a total dissolved solids standard of 3000 mg/l and a chloride standard of 900 mg/l.

c. Section 304.105 shall not apply to total dissolved solids and chloride discharge by Borden Chemicals and Plastics Operating Limited Partnership as described in subsection (a), so long as effluent discharged from the facility complies with the following effluent limitations as measured at the point of discharge to the unnamed tributary:

	<u>Daily Maximum</u>
<u>Total Dissolved Solids</u>	<u>3000 mg/l</u>
<u>Chloride</u>	<u>900 mg/l</u>

As can be seen, the proposed Section 303.431(c)\* would impact the regulatory provision found in Section 304.105 that effluent discharges shall not cause a violation of an applicable water quality standard. The Agency's proposed subparagraph (c) would provide relief for Borden from this requirement governing effluent discharges as an amendment to Part 303, Water Use Designations and Site-Specific Water Quality Standards. This relief from effluent limitations may also be placed within Part 304, Effluent Standards.

The regulatory structure proposed by the Agency has been used in the past in the case of Marathon Petroleum Company, R87-2 Opinion and Order, Sept. 13, 1989. However, the Board is persuaded that the format used in the second First Notice proposal is more appropriate here, and it is consistent with the relief fashioned in the Board's recent rulemaking, Site-Specific Limitation for the Modine Manufacturing Company Facility, Ringwood, Illinois, R87-36, Opinion and Order, May 24, 1990. The Board also notes that to restructure the relief at this late date might require a third First Notice and consequent delays for procedural objectives only. As stated in the Board's May 24, 1990 Opinion and Order (p. 3) in this matter, the Agency has also indicated that USEPA might also find acceptable the regulatory structure proposed at second First Notice, and, therefore, further language revisions would appear unnecessary at this time.

2. Numeric Limitations on Effluent Discharges

The separate comments received from both the Agency and Borden both support a modest increase in the numeric limitations for TDS and chloride concentrations. Rather than the initially

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\* The Agency's August 6, 1990 filing referred to Section 303.341 which the Board concludes was a typographical error.

proposed daily maximums of 2,500 mg/l and 800 mg/l for TDS and chloride, respectively, the participants strongly recommend that the limitations be set at 3,000 mg/l for TDS and 900 mg/l for chloride. The Board has previously found that absence of significant environmental harm and the extreme costs of compliance support the permanent relief requested. Furthermore, Borden has provided historical data showing that the initially proposed numeric limitations would be exceeded periodically resulting in violations of the newly established standards. The Board thus finds that the numeric limitations should be increased as requested by the participants.

### 3. Monthly Average Limitations

At second First Notice, the Board proposed a substantial change from the First Notice proposal in direct response to the Agency's comments filed on April 12, 1990. The Board imposed monthly average effluent limitations as requested by the Agency. Now, after further consideration and discussion with Borden, the Agency has concluded that monthly average limitations are not necessary to protect the receiving stream. Borden also opposes the imposition of this requirement.

The Board observed at second First Notice that "some level of monthly average limitations are ordinarily appropriate in conjunction with daily maximum limitations to regulate the total effluents received into waters of the State." Opinion and Order, May 24, 1990 (p. 4). While this remains true, the participants are in agreement that the lack of environmental harm supports a finding that monthly average limitations are not required here. Since the Agency asserts that the daily maximum discharge "does not impair the water quality of the receiving stream," the Board will concur with the Agency's revised position. (See Agency Comments, August 6, 1990, p. 2.)

### Conclusion

As a result of second First Notice Comments and for the foregoing reasons, the Board finds that the Agency and Borden have provided sufficient support for increasing the numeric limitations for TDS and chloride discharges and for deleting the monthly average limitations. The Board therefore proposes for second notice the following amendments to Parts 303 and 304:

#### Section 303.431 Long Point Slough and Its Unnamed Tributary

The general use water quality standards for total dissolved solids and for chloride contained in Section 302.208 shall not apply to Long Point Slough and its unnamed tributary, which receive discharges from the

Illioopolis, Illinois facility of Borden Chemicals and Plastics Operating Limited Partnership, from the outfall of that facility to the point of the confluence of the unnamed tributary downstream with the Sangamon River. Instead this water shall comply with a total dissolved solids standard of 3,000 mg/l and a chloride standard of 900 mg/l.

Section 304.211 Discharges From Borden Chemicals and Plastics Operating Limited Partnership Into an Unnamed Tributary of Long Point Slough

The effluent standards for total dissolved solids and chloride discharged from the Illioopolis, Illinois facility of Borden Chemicals and Plastics Operating Limited Partnership into an unnamed tributary of Long Point Slough shall comply with the following effluent limitations as measured at the point of discharge to the unnamed tributary:

Total Dissolved Solids 3,000 mg/l daily maximum

Chloride 900 mg/l daily maximum

ORDER

The Board hereby proposes for Second Notice the following amendments to 35 Ill. Adm. Code 303 and 304 and directs the Clerk to file these with the Secretary of State.

Section 303.431 Long Point Slough and Its Unnamed Tributary

The general use water quality standards for total dissolved solids and for chloride contained in Section 302.208 shall not apply to Long Point Slough and its unnamed tributary, which receive discharges from the Illioopolis, Illinois facility of Borden Chemicals and Plastics Operating Limited Partnership, from the outfall of that facility to the point of the confluence of the unnamed tributary downstream with the Sangamon River. Instead this water shall comply with a total dissolved solids standard of 3,000 mg/l and a chloride standard of 900 mg/l.

Section 304.211 Discharges From Borden Chemicals and Plastics Operating Limited Partnership Into an Unnamed Tributary of Long Point Slough

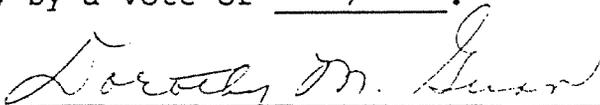
The effluent standards for total dissolved solids and chloride discharged from the Illiopolis, Illinois facility of Borden Chemicals and Plastics Operating Limited Partnership into an unnamed tributary of Long Point Slough shall comply with the following effluent limitations as measured at the point of discharge to the unnamed tributary:

Total Dissolved Solids      3,000 mg/l daily maximum

Chloride                      900 mg/l daily maximum

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Proposed Rule, Second Notice Opinion and Order was adopted on the 50<sup>th</sup> day of August, 1990, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board