ILLINOIS POLLUTION CONTROL BOARD
September 5, 1985

BORDEN CHEMICAL COMPANY, Petitioner,	)	
v.	)	PCB 83-32
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, Respondent.	)	

INTERIM ORDER OF THE BOARD (by J. Marlin):

The Board has received copies of correspondence from the U.S. EPA to the Illinois EPA which question the relief granted by the Board in R83-19 and R81-26. The letters are appended to this order and speak for themselves.

The relief sought in the instant proceeding may be similar to that sought in the prior proceedings. Board procedural rule 104.122 requires that petitioners in variance proceedings indicate whether the relief requested is consistent with Federal law. The Board believes the parties should express their views on this issue before the Board rules on this variance petition. Specifically, the parties are requested to address whether the Board can grant site-specific or variance relief in light of the provisions of the Clean Water Act (33 U.S.C. 1257 et. seq.) especially sections 303 and 510 (Id. 1313 and 1370).

Accordingly, the Illinois EPA is ordered to provide the Board and Borden copies of any replies it has made to the appended letters from U.S. EPA by September 13, 1985. Borden shall have until October 4, 1985 to file an amended petition addressing this issue. The Agency's recommendation shall be due October 28, 1985.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Interim Order was adopted on the 5th day of September, 1985 by a vote of 7-0.

Dorothy M. Gunn, Clerk
Illinois Pollution Control
Board

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN STREET
CHICAGO, ILLINOIS

JUL 2 1985

Mr. Roger Kanerva
Manager, Enviromental Programs
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

Dear Mr. Kanerva:

On April 23, 1985, we received a copy of the January 18, 1985, Illinois Pollution Control Board rulemaking pertaining to the City of Lockport treatment plant discharge (R83-19 codified 35 I.A.C. 304.208) from Steven Ewart of your Agency. Mr. Ewart provided his opinion that the Board rulemaking does not constitute a revision to the Illinois water quality standards (WQS), and, therefore, is not subject to U.S. Environmental Protection Agency (U.S. EPA) review, in accordance with Section 303(c) of the Clean Water Act (CWA).

The Board action, in effect, raised the criterion for ammonia-nitrogen in Deep Run Creek from 1.5 mg/l to to 15 mg/l. The general use designation of Deep Run Creek is maintained.

We believe this rulemaking is a WQS revision that must be approved by the U.S. EPA. We are also of the opinion that a criterion of 15 mg/l ammonia nitrogen is not consistent with the general use designation of Deep Run Creek.

We would like to avoid disapproval of the WQS for Deep Run Creek as currently revised. In order to do this, Illinois must either modify the use designation for Deep Run Creek based upon a use attainability analysis; or it must take action to revise the current ammonia-nitrogen criterion to be supportive of the general use designation.

We would like to receive your proposal for resolving this issue within the next 30 days. This would enable us to carry out our statutory responsibilities for WQS review and approval.

This is a serious matter which requires your personal attention. If you have any questions or concerns regarding this matter, please feel free to contact me directly.

Sincerely,

Charles H. Sutfin
Director, Water Division

cc: Jake Dumelle, IPCB

5-WQS-TUR-8

AUG 26 1985

R81-26
(adopted)
Oct. 1981

Mr. Roger Kanerva
Manager, Environmental Programs
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

Dear Mr. Kanerva:

As a result of a recent NPDES permit review for John Deere Foundry (Rock Island County), I became aware of a 1981 site-specific rule change (Section 304.205) to the State's effluent limitation rules, which exempts the discharger from meeting water quality standards (Section 305.105) for total dissolved solids, iron, and temperature. Although this rule was a revision to the State's effluent standards, it is my opinion that this change clearly constitutes a de facto water quality standards change which was never submitted to the U.S. Environmental Protection Agency for review and approval.

In addition, if the permittee were to discharge these parameters at the permitted levels, the resultant in-stream concentrations at critical low flow (7Q10) would not be protective of the designated general use for the unnamed tributary to Sugar Creek. Further, the available Illinois Pollution Control Board records do not provide sufficient information to justify such a water quality standards revision.

We would like to avoid disapproval of the water quality standards exemption for John Deere Foundry as currently adopted. In order to do this, Illinois must either modify the use designation for the affected receiving streams based upon use attainability analyses or it must rescind or revise the rule in order to adopt criteria which are protective of the designated general use.

We would like to receive your proposal for resolving this issue within the next 30 days. This would enable us to carry out our statutory responsibilities for water quality standards review and approval. In the interim, we will continue to object to the John Deere Foundry permit on the basis that the proposed effluent limits are not protective of the designated general use.

With the Lockport issue, this is a serious matter which requires your personal attention. If you have any questions or concerns regarding this matter, please feel free to contact me.

Sincerely yours,

ORIGINAL SIGNED BY
DALE S. BRYSON

Charles H. Sutfin
Director, Water Division

cc: Jacob Dumelle