

ILLINOIS POLLUTION CONTROL BOARD  
June 3, 2004

IN THE MATTER OF: PETITION OF )  
)  
PETITION OF HAYDEN ) AS 04-3  
WRECKING CORPORATION FOR AN ) (Adjusted Standard - Water)  
ADJUSTED STANDARD FROM )  
35 ILL. ADM. CODE 620.410(a) )

ORDER OF THE BOARD (by J.P. Novak):

In today's order, the Board directs the petitioner to provide additional information in support of its request for an adjusted standard. While acknowledging that the Illinois Environmental Protection Agency (Agency) recommends granting the request subject to conditions, the Board seeks additional information since the petitioner has waived hearing on its request.

On April 29, 2004, petitioner Hayden Wrecking Corporation (Hayden) petitioned the Board<sup>1</sup> for an adjusted standard from 35 Ill. Adm. Code 620.410(a), the Board's Class I groundwater standards, for four specified inorganic chemicals. Although Hayden has reserved its right to request a hearing after reviewing IEPA's recommendation on the petition, Hayden now waives that right. Pet. at 12; *see* 35 Ill Adm. Code 104.422(a)(1).

For approximately 31 years until 1992, Hayden operated two landfills covering 13 acres near the intersection of Illinois Route 203 and Interstate Highway 55/70 in St. Clair County. Pet. at 2. Hayden's site is located downgradient from the Milam Recycling and Disposal Facility, a 208-acre landfill site owned by Waste Management of Illinois, Inc. Pet. at 3. The Hayden site is now graded and covered with clean limestone for use as a parking lot by the adjacent Gateway International Raceway. Pet. at 2. As part of the process of closing its landfills, Hayden must demonstrate that the groundwater in the vicinity of the site satisfies Class I groundwater quality standards. Pet. at 3; *see* 35 Ill. Adm. Code 805.508, 807.524. Hayden states that its site exceeds Class I groundwater standards for arsenic, iron, lead, and manganese because those chemicals originate from an upgradient, off-site source. Pet. at 12. Hayden further states that, even if it remediates on-site groundwater, groundwater exceeding Class I standards for these four chemicals will continue to flow beneath its property. *Id.* On these bases, Hayden concludes that its Class I Groundwater standards should be adjusted for arsenic, iron, lead, and manganese. *Id.*

The Agency filed with the Board on May 24, 2004, its Recommendation to Petition for adjusted standard.<sup>2</sup> *See* 35 Ill. Adm. Code 104.416(a). The Agency recommends that, subject to certain conditions, the Board grant the petition and the requested adjusted standard from the requirements of 35 Ill. Adm. Code 620.410(a). Agency Rec. at 1. Specifically, the Agency

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<sup>1</sup> The Board cites the petition as "Pet. at \_."

<sup>2</sup> The Board cites the recommendation as "Agency Rec. at \_."

recommended two conditions that should be included in any adjusted standard adopted by the Board: “1) clarification of the specific regulations which are addressed by the Petition and Adjusted Standard; and 2) correction of the applicability of the revised standards to exclusively the Hayden’s permitted facility.” Agency Rec. at 6.

Section 28.1 of the Act (415 ILCS 5/28.1 (2002)) and 35 Ill. Adm. Code 104.408(a) requires publication of a notice of a petition for an adjusted standard in a newspaper of general circulation in the area likely to be affected by the petitioner’s activity. The notice must be published within 14 days of filing a petition for an adjusted standard with the Board. 35 Ill. Adm. Code 104.408(a). As required by 35 Ill. Adm. Code 104.410, Hayden timely filed with the Board a certificate of publication indicating that the *News-Democrat* of Belleville published notice of the petition on May 11, 2004. To date, no party has requested a hearing in this matter.

The Board finds that the petition has not fully satisfied informational requirements contained in Section 28.1(c) of the Act (415 ILCS 5/28.1(c) (2002)) and the Board’s rules at 35 Ill. Adm. Code 104.406. Specifically, the petition fails to provide the following information:

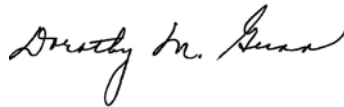
1. Under Section 28.1(c)(3) of the Act (415 ILCS 28.1(c)(3) (2002)) and 35 Ill. Adm. Code 104.406(g), the petition does not address the off-site environmental impact of migration from the Hayden site of groundwater with levels of certain inorganic contaminants above the Class I groundwater standards.
2. Under 35 Ill. Adm. Code 104.406(d), the petition does not address off-site properties downgradient from the Hayden site or any existing or anticipated uses of the groundwater from those properties.
3. Under 35 Ill. Adm. Code 104.406 (d), although the petition states that the site is not within the setback zone of any potable water supply well, Pet. at 5, the petition does not clarify whether there are any potable water wells or public water supply wells within 2500 feet of the site.
4. Under 35 Ill. Adm. Code 104.406 (d) the petition does not include a map of the site clearly identifying the location of the following: all water wells within 2500 feet of the site, groundwater monitoring wells, the Milam Landfill, Gateway International Raceway, and all relevant downgradient properties.
5. Under 35 Ill. Adm. Code 104.406 (d), the petition does not clarify whether Hayden monitored groundwater at the site before 1991 or after 2001. If Hayden has monitored groundwater at the site before 1991 or after 2001, the petition does not include results of such monitoring.
6. Under 35 Ill. Adm. Code 104.406(e), the petition does not describe the efforts and corresponding costs that would be necessary to comply with the regulation of general applicability. Also, the petition does not describe

any compliance alternatives and corresponding costs that would be necessary to comply with the regulation of general applicability.

Without the additional information described above, the Board cannot grant the petition for an adjusted standard. Because Hayden has waived its right to a hearing and because no party has to date responded to the required publication of notice by requesting one, the Board does not now expect to conduct a hearing in this matter. Accordingly, the Board directs the petitioner to address the information requirements of Section 28.1 of the Act and Section 104.406 of the Board's rules as described above in an amended petition. If an amended petition curing the noted deficiencies is not filed within 45 days of this order, this petition may be subject to dismissal.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 3, 2004, by a vote of 5-0.

A handwritten signature in black ink, appearing to read "Dorothy M. Gunn". The signature is written in a cursive, flowing style.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board