

ILLINOIS POLLUTION CONTROL BOARD

October 5, 2000

IN THE MATTER OF: )  
)  
PETITION OF TOSCOPETRO ) AS 98-6  
CORPORATION (formerly WOOD RIVER ) (Adjusted Standard - RCRA)  
REFINING COMPANY, a division of )  
EQUILON ENTERPRISES LLC f/k/a SHELL )  
WOOD RIVER REFINING COMPANY), FOR )  
AN ADJUSTED STANDARD FROM 35 ILL. )  
ADM. CODE 725.213 AND 725.321 )

ORDER OF THE BOARD (by M. McFawn):

On August 28, 2000, Toscopetro Corporation (Toscopetro), a wholly-owned subsidiary of Tosco Corporation, and Equilon Enterprises, LLC (collectively referred to as movants), filed a Joint Motion to Reopen Docket and Substitute Petitioner.<sup>1</sup> Movants request that the Board reopen and substitute Toscopetro Corporation for Wood River Refining Company as the petitioner and holder of the adjusted standard that the Board originally granted in In re Petition of Wood River Refining Company, a Division of Equilon Enterprises LLC f/k/a Shell Wood River Refining Company, for an Adjusted Standard from 35 Ill. Adm. Code 725.213 and 725.321 (March 18, 1999), AS 98-6. That order granted an adjusted standard from 35 Ill. Adm. Code 725.321 that allowed Wood River Refining Company, a Division of Equilon Enterprises, LLC (WRRC), to continue operating Pond #2 for treating nonhazardous waste without closure. Movants have waived hearing regarding this motion. The Board will grant this motion and will substitute Toscopetro Corporation as the holder of this adjusted standard.

Up until June 1, 2000, Equilon Enterprises, LLC,<sup>2</sup> owned and operated the Wood River Refinery (Refinery) in Roxana, Illinois. On June 1, 2000, Toscopetro assumed ownership and operation of the Refinery. Toscopetro has notified the Illinois Environmental Protection Agency (Agency) and requested the transfer of all environmental permits that apply to the Refinery.

On September 7, 2000, the Agency filed a Response to Joint Motion to Reopen Docket and Substitute Petitioner. In its response, the Agency does not object to the relief requested by

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<sup>1</sup> On the same day Movants filed their Joint Motion to Reopen Docket and Substitute Petitioner in the instant case, they also filed a Joint Motion to Reopen Docket and Substitute Petitioner in In re Petition of Shell Wood River Refining Company for Adjusted Standard from 35 Ill. Adm. Code 725.213 and 725.321, AS 97-3, addressing a similar issue for Pond #1 at the Refinery.

<sup>2</sup> When it originally filed its petition for AS 98-6, petitioner was known as Shell Wood River Refining Company. While this matter was originally pending, petitioner's name changed through corporate restructuring. In an order dated November 19, 1998, the hearing officer granted petitioner's November 19, 1998 oral motion to amend the caption to reflect the petitioner's new name: Wood River Refining Company, A Delaware Corporation and Division of Equilon Enterprises, LLC.

movants, on the condition that Toscopetro abide by the terms of the adjusted standard and use Pond #2 in the same manner that justified the relief granted in the original adjusted standard.

### REGULATORY FRAMEWORK

As indicated by the caption in this matter, two regulations are relevant in this adjusted standard. First, Section 725.321, Design and Operating Requirements, sets forth the requirements for operating a hazardous waste surface impoundment. Second, adjusted standard relief from this section is governed by Section 725.213, Closure; Time Allowed for Closure. In pertinent part it provides:

- e) Surface impoundments. In addition to the requirements of subsection (d) above, an owner or operator of a hazardous waste surface impoundment which is not in compliance with the liner and leachate collection system requirements in Section 725.321(a) shall receive non-hazardous wastes only as authorized by an adjusted standard pursuant to this subsection. (Emphasis added.)

\* \* \*

- 8) Adjusted standard procedures. The following procedures must be used in granting, modifying or terminating an adjusted standard pursuant to this section.
- A) Except as otherwise provided, the owner or operator shall follow the procedures of 35 Ill. Adm. Code 106.Subpart G to petition the Board for an adjusted standard.
- B) Initial justification. The Board will grant an adjusted standard pursuant to subsection (e)(1), above, if the owner or operator demonstrates that the removal plan and contingent corrective measures plans meet the requirements of subsections (e)(2) and (3), above.
- C) The Board will include the following conditions in granting an adjusted standard pursuant to subsection (e)(1), above:
- i) A plan for removing hazardous wastes.
- ii) A requirement that the owner or operator remove hazardous wastes in accordance with the plan.
- iii) A contingent corrective measures plan.
- iv) A requirement that, in the event of a release, the owner or operator shall, within 35 days, file with the

Board a petition for adjusted standard; implement the corrective measures plan; and, file semi-annual reports with the Agency.

- v) A condition that the adjusted standard will terminate if the owner or operator fails to: implement the removal plan; or, timely file a required petition for adjusted standard.
- vi) A requirement that, in the event the adjusted standard is terminated, the owner or operator shall commence closure of the unit in accordance with the requirements of the closure plan and this Part.

### DISCUSSION

As stated at the outset in Section 725.213(e), any person seeking to keep a hazardous waste management unit or facility in service for the purpose of receiving non-hazardous waste while it does not meet the requirements of Section 725.321 must obtain an adjusted standard pursuant to Section 725.213(e). Specifically, the procedures for obtaining such an adjusted standard are found at Section 725.213(e)(8). Section 28.1(b) of the Environmental Protection Act, 415 ILCS 5/28.1(b)(1998), provides that the level of justification necessary for granting an adjusted standard may be specified within just such a Board rule.

As a preliminary matter in the original adjusted standard opinion, the Board found that the level of justification required is that set forth in Section 725.213(e)(8)(B). *In re* Petition of Wood River Refining, AS 98-6, slip op. at 7. The Board then evaluated the original petition in accordance with these criteria. Thereafter the Board found WRRC's justification for the continued operation of Pond #2 at the Refinery as a second-stage biological treatment unit (including nitrification) for treating nonhazardous wastewater, without closure, warranted a grant of an adjusted standard. *Id.* at 9.

Toscopetro now assures the Board that the relevant factors required to justify the adjusted standards have remained unchanged and will not be affected by Toscopetro's acquisition of the Refinery. Pet. Mot., par. 9. Furthermore, Toscopetro states that:

Since taking over ownership and operation of the Refinery on June 1, 2000, Tosco has continued to operate Pond #2 at the Refinery in the same manner as its predecessor, Equilon. Further, Tosco intends to continue to operate Pond #2 at the Refinery in accordance with all applicable environmental statutes, regulations, and permits, including the Adjusted Standard . . . . Pet. Mot., par. 8

The Affidavit of Rick Strouse, Manager of Environmental Health & Safety at the Refinery, attests to this last statement.

### CONCLUSION

The Board finds that Toscopetro has adequately demonstrated that it can be substituted as the current holder of this adjusted standard. That finding is premised upon Toscopetro's representation that the relevant factors which justified the original adjusted standard in this matter have not changed, along with Toscopetro's assurance that it has and will continue to operate Pond #2 in accordance with the previously granted adjusted standard, and the Board's opinion in *In re Petition of Wood River Refining*, AS 98-6. Accordingly, the Board will substitute the name of Toscopetro Corporation for Wood River Refining Company, in its March 18, 1999 order.

#### ORDER

The Board hereby amends its March 18, 1999 order in this matter, and, pursuant to 35 Ill. Adm. Code 725.213(e), grants Toscopetro Corporation an adjusted standard from 35 Ill. Adm. Code 725.321 for the Refinery, so that Toscopetro Corporation may operate Pond #2 (which includes the inlet ditch as an appurtenance) as a second-stage biological treatment unit (including nitrification) for treating nonhazardous wastewater, without meeting the requirements of 35 Ill. Adm. Code 725.321. For the purposes of this adjusted standard, the contingent corrective measures plan consists of the applicable provisions of Attachments 5 and 9 to the petition (including any amendments to those documents approved by the Agency). The Board's grant of an adjusted standard is subject to the same conditions imposed when the original adjusted standard was granted to Wood River Refining Company. These conditions are:

- 1) Toscopetro Corporation must continue the groundwater monitoring program described in Attachment 9 to the petition for the duration of this adjusted standard.
- 2) In the event of a release from the pond, Toscopetro Corporation must:
  - a) File a petition for an adjusted standard with the Board within 35 days;
  - b) Implement the corrective measures plan; and
  - c) File semi-annual reports with the Agency.
- 3) If Toscopetro Corporation fails to timely file a required adjusted standard petition with the Board and/or fails to implement the contingent corrective measures plan, this adjusted standard will terminate and Toscopetro Corporation must commence closure of Pond #2 in accordance with the closure plan and 35 Ill. Adm. Code 725.
- 4) Toscopetro Corporation must test the influent to Pond #2 for benzene using the Toxicity Characteristic Leaching Procedure on a monthly basis. Toscopetro Corporation must keep test result records for a minimum of three years, and provide the same to the Agency upon request. If testing indicates the presence of benzene at a concentration exceeding the limit set

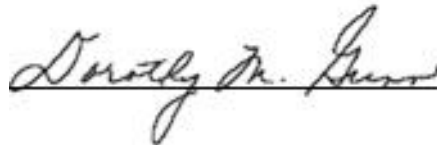
in 35 Ill. Adm. Code 721.124, Toscopetro Corporation must notify the Agency within 24 hours.

- 5) In the event the Staged Biological Treatment tank system becomes inoperable or malfunctions, Toscopetro Corporation must take all appropriate measures to prevent introduction of hazardous wastewaters into Pond #2.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 5th day of October 2000 by a vote of 7-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board