

ILLINOIS POLLUTION CONTROL BOARD

September 19, 2019

VILLAGE OF HOMEWOOD, HOMEWOOD	)	
ILLINOIS, VILLAGE OF ORLAND PARK,	)	
ORLAND PARK ILLINOIS, VILLAGE OF	)	
MIDLOTHIAN, MIDLOTHIAN ILLINOIS,	)	
VILLAGE OF TINLEY PARK, TINLEY PARK	)	
ILLINOIS, EXXONMOBIL OIL	)	
CORPORATION, VILLAGE OF WILMETTE,	)	
WILMETTE ILLINOIS, CITY OF COUNTRY	)	
CLUB HILLS, COUNTRY CLUB HILLS	)	
ILLINOIS, NORAMCO-CHICAGO, INC.,	)	
INEOS JOLIET, LLC, CITY OF EVANSTON,	)	
EVANSTON ILLINOIS, VILLAGE OF	)	
SKOKIE, SKOKIE ILLINOIS, ILLINOIS	)	PCB 16-14 (Homewood)
DEPARTMENT OF TRANSPORTATION,	)	PCB 16-15 (Orland Park)
METROPOLITAN WATER RECLAMATION	)	PCB 16-16 (Midlothian)
DISTRICT OF GREATER CHICAGO,	)	PCB 16-17 (Tinley Park)
VILLAGE OF RICHTON PARK, RICHTON	)	PCB 16-18 (ExxonMobil)
PARK ILLINOIS, VILLAGE OF	)	PCB 16-20 (Wilmette)
LINCOLNWOOD, LINCOLNWOOD	)	PCB 16-21 (Country Club Hills)
ILLINOIS, CITY OF OAK FOREST, OAK	)	PCB 16-22 (Noramco-Chicago)
FOREST ILLINOIS, VILLAGE OF	)	PCB 16-23 (INEOS Joliet)
LYNWOOD, LYNWOOD ILLINOIS, CITGO	)	PCB 16-25 (Evanston)
HOLDINGS, INC., VILLAGE OF NEW	)	PCB 16-26 (Skokie)
LENOX, NEW LENOX ILLINOIS, CITY OF	)	PCB 16-27 (IDOT)
LOCKPORT, LOCKPORT ILLINOIS,	)	PCB 16-29 (MWRDGC)
CATERPILLAR, INC., CITY OF CREST HILL,	)	PCB 16-30 (Richton Park)
CREST HILL ILLINOIS, CITY OF JOLIET,	)	PCB 16-31 (Lincolnwood)
JOLIET ILLINOIS, MORTON SALT, INC.,	)	PCB 16-33 (Oak Forest)
CITY OF PALOS HEIGHTS, PALOS HEIGHTS	)	PCB 19-7 (Village of Lynwood)
ILLINOIS, VILLAGE OF ROMEOVILLE,	)	PCB 19-8 (Citgo Holdings)
ROMEOVILLE ILLINOIS, IMTT ILLINOIS	)	PCB 19-9 (New Lenox)
LLC, STEPAN CO., VILLAGE OF PARK	)	PCB 19-10 (Lockport)
FOREST, PARK FOREST ILLINOIS, OZINGA	)	PCB 19-11 (Caterpillar)
READY MIX CONCRETE, INC., OZINGA	)	PCB 19-12 (Crest Hill)
MATERIALS, INC., MIDWEST MARINE	)	PCB 19-13 (Joliet)
TERMINALS LLC, VILLAGE OF MOKENA,	)	PCB 19-14 (Morton Salt)
MOKENA ILLINOIS, VILLAGE OF OAK	)	PCB 19-15 (Palos Heights)
LAWN, OAK LAWN ILLINOIS, VILLAGE OF	)	PCB 19-16 (Romeoville)
DOTON, DOTON ILLINOIS, VILLAGE OF	)	PCB 19-17 (IMTT Illinois)
GLENWOOD, GLENWOOD ILLINOIS,	)	PCB 19-18 (Stepan)
VILLAGE OF MORTON GROVE, MORTON	)	PCB 19-19 (Park Forest)
GROVE ILLINOIS, VILLAGE OF LANSING,	)	PCB 19-20 (Ozinga Ready Mix)
LANSING ILLINOIS, VILLAGE OF	)	PCB 19-21 (Ozinga Materials)

FRANKFORT, FRANKFORT ILLINOIS,	)	PCB 19-22 (Midwest Marine)
VILLAGE OF WINNETKA, WINNETKA	)	PCB 19-23 (Mokena)
ILLINOIS, VILLAGE OF LA GRANGE, LA	)	PCB 19-24 (Oak Lawn)
GRANGE ILLINOIS, VILLAGE OF	)	PCB 19-25 (Dolton)
CHANNAHON, CHANNAHON ILLINOIS,	)	PCB 19-26 (Glenwood)
COOK COUNTY DEPARTMENT OF	)	PCB 19-27 (Morton Grove)
TRANSPORTATION AND HIGHWAYS,	)	PCB 19-28 (Lansing)
VILLAGE OF NILES, NILES ILLINOIS,	)	PCB 19-29 (Frankfort)
SKYWAY CONCESSION COMPANY LLC,	)	PCB 19-30 (Winnetka)
VILLAGE OF ELWOOD, ELWOOD ILLINOIS,	)	PCB 19-31 (La Grange)
CITY OF CHICAGO, CHICAGO ILLINOIS,	)	PCB 19-33 (Channahon)
VILLAGE OF CRESTWOOD, CRESTWOOD	)	PCB 19-34 (CCDTH)
ILLINOIS and VILLAGE OF RIVERSIDE,	)	PCB 19-35 (Niles)
RIVERSIDE ILLINOIS	)	PCB 19-36 (Skyway)
	)	PCB 19-37 (Elwood)
Petitioners,	)	PCB 19-38 (Chicago)
	)	PCB 19-40 (Crestwood)
v.	)	PCB 19-48 (Riverside)
	)	
ILLINOIS ENVIRONMENTAL PROTECTION	)	(Time-Limited Water Quality
AGENCY,	)	Standard)
	)	(Consolidated)
Respondent.	)	

ORDER OF THE BOARD (by B.K. Carter):

On August 23, 2019, Caterpillar, Inc. (Caterpillar) filed a motion to withdraw (Mot.) its petition for a chloride time-limited water quality standard (TLWQS). The petition concerns Caterpillar’s facility permitted to discharge wastewater into a portion of the Lower Des Plaines River. The facility is located at 2200 Channahon Road in Joliet, Will County. For the reasons below, the Board grants Caterpillar’s motion to withdraw its petition but denies its request for a retroactive effective date.

On July 24, 2018, Caterpillar filed its petition (a standardized form known as an “Individual Submittal in Support of Petition for Chloride TLWQS for the Defined Chicago Area Water System/Des Plaines River Watershed”) to join a class of dischargers seeking to be covered by a chloride TLWQS for defined portions of the Chicago Area Waterway System and Lower Des Plaines River. *See Village of Homewood v. IEPA*, PCB 16-14, *et al.* (consol.), slip op. at 2 (June 8, 2017). Among others, the Board consolidated for hearing with Homewood Caterpillar’s petition and included Caterpillar within the established class of dischargers. Homewood, PCB 16-14, *et al.* (consol.) (Aug. 23, 2018). Caterpillar now seeks to withdraw its petition.

In its motion, Caterpillar states that on June 30, 2019, it “ceased all operations at, and has now exited, the Joliet Facility.” Mot. at 2. Because Caterpillar no longer discharges wastewater into the Des Plaines River, coverage under a TLWQS is no longer necessary. *Id.* Caterpillar requests that the Board grant its motion and consider its petition withdrawn as of the date of

filing its motion—August 23, 2019. The Illinois Environmental Protection Agency did not respond to the motion.

As a general rule, when the Board grants relief, the relief is effective on the date of the order granting it. However, if supported by sufficient justification, the Board has sparingly granted relief retroactively. *See, e.g., W.R. Grace & Co.-Conn. v. IEPA*, PCB 96-193, slip op. at 11-12 (Feb. 6, 1997); *see also* Petition of Central Can Co. for An Adjusted Standard from 35 Ill. Adm. Code Part 218, AS 94-18 (Aug. 6, 1998). Caterpillar does not provide an explanation for its request that the withdrawal apply retroactively. Without more, the Board is not inclined to consider Caterpillar's petition withdrawn on another date other than the date of this order. Therefore Caterpillar's request for retroactive application is denied.

The Board grants Caterpillar's motion to withdraw but considers its chloride TLWQS petition withdrawn as of the date of today's order. Accordingly, Caterpillar is no longer a party to this action. To accurately reflect the petitioners in this proceeding, the Board directs the Clerk to amend the caption by removing Caterpillar, Inc. from the list of petitioners and its corresponding docket number. Future filings must reflect the amended caption.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 19, 2019, by a vote of 4-0.



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Don A. Brown, Clerk  
Illinois Pollution Control Board