

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
) R 2022-018
PROPOSED AMENDMENTS TO)
GROUNDWATER QUALITY) (Rulemaking – Public Water Supply)
(35 ILL. ADM. CODE 620))

NOTICE OF FILING

To: ALL PARTIES ON THE SERVICE LIST

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, **INDUSTRY PARTICIPANTS' JOINT MOTION FOR EXTENSION OF TIME TO FILE PRE-FILED TESTIMONY**, copies of which are hereby served upon you.

Dated: July 22, 2022

By /s/ Claire A. Manning

BROWN, HAY & STEPHENS, LLP

Claire A. Manning
Anthony D. Schuering
205 S. Fifth Street, Suite 1000
P.O. Box 2459
Springfield, IL 62705-2459
(217) 544-8491
cmanning@bhslaw.com
aschuering@bhslaw.com

SORLING NORTHRUP

James M. Morphew
1 North Old State Capitol Plaza
Suite 200
P.O. Box 5131
Springfield, IL 62705
jmmorphew@sorlinglaw.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
) R 2022-018
PROPOSED AMENDMENTS TO)
GROUNDWATER QUALITY) (Rulemaking – Public Water Supply)
(35 ILL. ADM. CODE 620))

**INDUSTRY PARTICIPANTS' JOINT MOTION FOR
EXTENSION OF TIME TO FILE PRE-FILED TESTIMONY**

The NATIONAL WASTE AND RECYCLING ASSOCIATION (“NWRA”), by and through its attorneys, Brown, Hay & Stephens, LLP, and Sorling Northrup, along with the PFAS REGULATORY COALITION, by and through its attorneys, Barnes & Thornburg LLP, the AMERICAN CHEMISTRY COUNCIL, by and through its attorney, Aleacia Chinkhota, and DYNEGY MIDWEST GENERATION, LLC, ELECTRIC ENERGY INC., ILLINOIS POWER GENERATING COMPANY, ILLINOIS POWER RESOURCES GENERATING, LLC; AND KINCAID GENERATION, LLC (collectively, “Dyegy”) by and through its attorneys, ArentFox Schiff LLP, hereby move to extend the deadline to file Pre-Filed Testimony, and in support thereof state as follows:

1. On December 8, 2021, the Illinois Environmental Protection Agency (“IEPA”) filed proposed amendments to Part 620 of the Board’s regulations, which for the first time would set groundwater standards for certain emerging contaminants, including various per- and polyallylflurorinated substances (“PFAS”), and which would require use of a new analytical method for PFAS.

2. The rulemaking is substantial in that it seeks to adopt strict Illinois-specific groundwater standards for the above-referenced emerging contaminants at a time when a federal regulatory strategy, including federal drinking water standards that will become applicable in

Illinois, is itself quickly emerging. See USEPA's "PFAS Strategic Roadmap" at <https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024> .

3. To date, the Board has heard testimony from the IEPA and entertained questioning of that testimony by the participants in this rulemaking which, in addition to the IEPA, include the moving parties ("Movants").

4. Two sets of hearings have been held, in March and June 2022.

5. On June 24, 2022, the Hearing Officer held a pre-hearing conference to schedule further hearings. This next set of hearings will be for the purpose of hearing testimony from other participants in this proceeding, including the Movants.

6. On July 11, 2022, after that pre-hearing conference, the Hearing Officer issued an order that set the following schedule: August 5 (Pre-filed Testimony of Participants); September 16 (Pre-Filed Questions on Testimony); October 14 (Pre-Filed Answers); November 1-2 and November 16 (Hearings).

7. On July 20, 2022, representatives of Movants contacted counsel for IEPA in this proceeding to advise her that, despite best efforts, participants would not be able to meet the deadline for pre-filed testimony set by the Hearing Officer for August 5 and intended to seek an extension of those deadlines from the Board.

8. The purpose of the above-referenced call was to inquire as to whether the IEPA would be agreeable if participants proposed an extension until mid-September.

9. Counsel for the IEPA indicated that the IEPA would be agreeable to such extension, so long as IEPA had as much time to file pre-filed questions as is built in the current schedule.

10. Counsel for IEPA also indicated she would not object to moving the scheduled hearings out beyond the currently scheduled November dates, into December or possibly into January, so as to avoid the holidays.

11. Accordingly, so that the Board can hear fully informed and timely testimony from the Participants, and not for the purposes of delay, the Movants respectfully move that the Board modify the current schedule for this important proceeding as follows:

Pre-Filed Testimony of Non-IEPA Participants: September 15, 2022

Questions Regarding Pre-Filed Testimony: October 27, 2022

Responses to Questions: November 23, 2022

Hearing Dates: In December or January, specific dates to be set by the Board after the Pre-Hearing Conference scheduled for September 19, 2022

If the Board prefers to schedule the hearing dates earlier than December or January, then the Movants suggest that instead of having responses to questions filed on November 23, 2022, the Board provide that witnesses will answer questions on the record during the hearing, and that the hearing for all witnesses be scheduled on November 16, to continue thereafter until completed.

By /s/ Claire A. Manning

BROWN, HAY & STEPHENS, LLP

Claire A. Manning
Anthony D. Schuering
205 S. Fifth Street, Suite 1000
P.O. Box 2459
Springfield, IL 62705-2459
(217) 544-8491
cmanning@bhslaw.com
aschuering@bhslaw.com

SORLING NORTHRUP

James M. Morphew
1 North Old State Capitol Plaza
Suite 200
P.O. Box 5131
Springfield, IL 62705
jmmorphew@sorlinglaw.com

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 22nd day of July 2022, I electronically served **INDUSTRY PARTICIPANTS' JOINT MOTION FOR EXTENSION OF TIME TO FILE PRE-FILED TESTIMONY** upon the individuals on the attached service list. I further certify that my email address is cmanning@bhslaw.com.

Dated: July 22, 2022

By /s/ Claire A. Manning

BROWN, HAY & STEPHENS, LLP

Claire A. Manning

205 S. Fifth Street, Suite 1000

P.O. Box 2459

Springfield, IL 62705-2459

(217) 544-8491

cmanning@bhslaw.com

<u>SERVICE LIST</u>	
<p>Don Brown, Clerk of the Board Don.brown@illinois.gov Vanessa Horton, Hearing Officer Vanessa.Horton@Illinois.gov Illinois Pollution Control Board James R. Thompson Center Suite 11-500 100 West Randolph Chicago, Illinois 60601</p>	<p>Sara Terranova, Assistant Counsel sara.terranova@illinois.gov Nicholas E. Kondelis, Assistant Counsel Nicholas.E.Kondelis@Illinois.gov Illinois Environmental Protection Agency 1021 North Grand Avenue East PO Box 19276 Springfield, Illinois 62794</p>
<p>Jorge T. Mihalopoulos, Head Assistant Attorney jorge.mihalopoulos@mwrld.org Susan T. Morakalis, General Counsel morakaliss@mwrld.org J. Mark Powell, Senior Attorney PowellJ@mwrld.org Metropolitan Water Reclamation District of Greater Chicago 100 E. Erie Street Chicago, Illinois 60611</p>	<p>Renee Snow, General Counsel renee.snow@illinois.gov Illinois Department of Natural Resources One Natural Resources Way Springfield, Illinois 62702</p>
<p>Ellen F. O’Laughlin, Assistant Attorney General Ellen.Olaughlin@ilag.gov Jason James, Assistant Attorney General Jason.James@ilag.gov Office of the Illinois Attorney General 69 West Washington Street Suite 1800 Chicago, IL 60602</p>	<p>Melissa S. Brown Melissa.Brown@heplerbroom.com Illinois Environmental Regulatory Group 4340 Acer Grove Drive Springfield, IL 62711</p>
<p>Joshua R. More josh.more@afslaw.com Bina Joshi Bina.Joshi@afslaw.com Sarah L. Lode sarah.lode@afslaw.com ArentFox Schiff LLP 233 South Wacker Drive, Suite 7100 Chicago, IL 60606</p>	<p>Fredric P. Andes fandes@btlaw.com Barnes & Thornburg LLP 1 North Wacker Drive Suite 4400 Chicago, IL 60606</p>

<p>Nessa Coppinger ncoppinger@bdlaw.com Daniel Schulson dschulson@bdlaw.com Matthew Schneider mschneider@bdlaw.com Beveridge & Diamond, PC 1900 N. St. NW Washington, DC 20036</p>	<p>Stephen P. Risotto - Senior Director, CPT srisotto@americanchemistry.com Aleacia Chinkhota aleacia_chinkhota@americanchemistry.com American Chemistry Council 700 2nd Street, NE Washington, DC 20002</p>
<p>Sandra Carey - HSE Executive sandracarey@imoa.info International Molybdenum Association 454-458 Chiswick High Road London, W4 5TT, United Kingdom</p>	