

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
) R 2022-018
PROPOSED AMENDMENTS TO)
GROUNDWATER QUALITY)
(35 ILL. ADM. CODE 620))

NOTICE OF FILING

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board, the **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSE**, a copy of which is served upon you.

Respectfully submitted,

Dated: March 3, 2023

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Sara Terranova
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

BY: /s/ Sara Terranova
Sara Terranova

THIS FILING IS SUBMITTED ELECTRONICALLY

SERVICE LIST

<p>ILLINOIS POLLUTION CONTROL BOARD Don Brown, Clerk Don.Brown@illinois.gov Vanessa Horton, Hearing Officer Vanessa.Horton@illinois.gov Chloe Salk, Hearing Officer 100 W. Randolph, Suite 11-500 Chicago, IL 60601</p>	<p>ILLINOIS ENVIRONMENTAL PROTECTION AGENCY Sara Terranova, Assistant Counsel Sara.Terranova@illinois.gov 1021 North Grand Avenue East Springfield, IL 62794-9276</p>
<p>ILLINOIS OFFICE OF THE ATTORNEY GENERAL Ellen F. O’Laughlin, Asst Attorney General Ellen.Olaughlin@ilga.gov Jason James, Asst. Attorney General Jason.james@ilag.gov 69 W. Washington, Suite 1800 Chicago, IL 60602</p>	<p>ILLINOIS DEPARTMENT OF NATURAL RESOURCES Renee Snow, General Counsel Renee.Snow@illinois.gov One Natural Resources Way Springfield IL 62702-1271</p>
<p>METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO Jorge Mihalopoulos, Head Asst. Attorney Jorge.mihalopoulos@mwr.org Susan Morkalis morkaliss@mwr.org, General Counsel J. Mark Powell, Senior Attorney PowellJ@mwr.org 100 E. Erie Street Chicago, IL 60611</p>	<p>HEPLERBROOM LLC* Melissa Brown, Melissa.Brown@heplerbloom.com 4340 Acer Grove Drive Springfield, IL 62711</p>
<p>ARENTFOX SCHIFF LLP Joshua R. More Josh.More@afslaw.com Bina Joshi Bina.Joshi@afslaw.com Sarah Lode Sara.lode@afslaw.com Daniel J. Deeb Dan.Deeb@afslaw.com Alex Garel-Frantzen Alex.Garel-Frantzen@afslaw.com 233 South Wacker Drive, Suite 7100 Chicago, IL 60606</p>	<p>BARNES & THORNBURG Fredric Andes fandes@btlaw.com 1 North Wacker Drive Suite 4400 Chicago, IL 60606</p>
<p>BEVERIDGE & DIAMOND, PC Nessa Coppinger ncoppinger@bdlaw.com Daniel Schulson Dschulson@bdlaw.com</p>	<p>AMERICAN CHEMISTRY COUNCIL Stephen Risotto-Senior Director srisotto@americanchemistry.com Aleacia Chinkhota Aleacia_chinkhota@americanchemistry.com</p>

Electronic Filing: Received, Clerk's Office 03/03/2023

1900 N. St. NW Washington DC, 20036	700 2 nd Street, NE Washington, DC 20002
BROWN, HAY & STEPHENS LLP* Claire A. Manning cmanning@bhslaw.com Anthony D. Schuering aschuering@bhslaw.com 205 South Fifth Street, Suite 700 P.O. Box 2459 Springfield, IL 62705	INTERNATIONAL MOLYBDENUM ASSOCIATION Sandra Carey – HSE Executive sandracarey@imoa.info 454-458 Chiswick High Road London, W4 5TT, United Kingdom
SORLING NORTHRUP James M. Morphew jmmorphew@sorlinglaw.com 1 North Old State Capitol Plaza, Suite 200 P.O. Box 5131 Springfield, IL 62705	

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
) R 2022-018
PROPOSED AMENDMENTS TO)
GROUNDWATER QUALITY)
(35 ILL. ADM. CODE 620))

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSE

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA or Agency"),
by and through one of its attorneys, and submits a follow-up response to the Board's question:

Board Follow-up to Illinois EPA's Response to Question 2

Please comment on whether an Agency's determination under Section 620.250(d)(3) must also require the owner or operator to submit either a site-specific rule change or an adjusted standard granted by the Board that allows the contaminants of concern to remain in excess of the numerical groundwater standards.

Agency Response

No, an owner or operation does not need to seek a site-specific rule change or an adjusted standard from the Board to allow contaminants of concern to remain in excess of the numerical groundwater standards. After consideration of the Board's question, the Agency revised the proposed language regarding groundwater management zones with completed corrective actions, but still require continued management at the site because concentrations of chemical constituents above applicable groundwater standards remain in the groundwater at the site. The Agency does not intend to terminate the groundwater management zones for these specific instances which would potentially require an owner or operator to seek either a site-specific or an adjusted standard granted by the Board to allow the contaminants of concern to remain in excess of the numerical groundwater standards. Rather, the Agency intends for these sites to remain subject to Section

620.450(a)(4)(B), thus allowing after the completion of corrective action, the standard for the released chemical to be the concentration as determined by groundwater monitoring, if such concentration exceeds the standard for appropriate class, the exceedance has been minimized and beneficial use has been returned, and any threat to public health or the environment has been minimized. To demonstrate this distinction, proposed Sections 620.250(c) and (d) now contain language when a groundwater management zone may be terminated, and a new proposed Section 620.250(e) contains language for those sites subject to Section 620.450(a)(4)(B).

Section 620.250 Groundwater Management Zone

- a) Within any class of groundwater, a groundwater management zone may be established as a three-dimensional region containing groundwater being managed to mitigate impairment caused by the release of contaminants from a site:
 - 1) That is subject to a corrective action process approved by the Agency; or
 - 2) For which the owner or operator undertakes an adequate corrective action in a timely and appropriate manner and provides a written confirmation to the Agency. Such confirmation shall ~~must~~ be provided using Section 620.Appendix D with the information required by Section 620.250(i) attached in a form as prescribed by the Agency.
- b) A groundwater management zone is established on the date of the Agency's written concurrence ~~upon concurrence by the Agency~~ that the conditions as specified in subsection (a) are met and groundwater management will continue ~~continues~~ for a period of time consistent with the action described in that subsection.
- c) A groundwater management zone terminates if the three-dimensional region containing groundwater no longer requires management to mitigate impairment caused by the release of contaminants from a site and no longer requires corrective action. The owner or operator shall submit to the Agency for approval, appropriate documentation, including Section 620.Appendix D, Part IV, confirming the completion of corrective action pursuant to subsection (a)1 or (2). Documentation shall also confirm compliance with applicable standards in Subpart D.
- d) A groundwater management zone terminates if an owner or operator fails to implement and comply with all Agency approved corrective actions, or any additional corrective action amendments or modifications that can be reasonably expected to result in compliance with applicable standards in Subpart D.

~~expires upon the Agency's receipt of appropriate documentation which confirms the completion of the action taken pursuant to subsection (a) and which confirms the attainment of applicable standards as set forth in Subpart D.~~

- e) Following completion of the corrective action established pursuant to subsection (a)(1) or (2), the Agency shall review the on-going adequacy of controls and continued management at the site if concentrations of chemical constituents, as specified in Section 620.450(a)(4)(B), remain in groundwater at the site following completion of such action. The review ~~shall~~ must take place no less often than every 5 years and the results shall be presented to the Agency in a written report.
- f) Notwithstanding subsections (a) and (b) above, a groundwater management zone as defined in 35 Ill. Adm. Code 740.120 may be established in accordance with the requirements of 35 Ill. Adm. Code 740.530 for sites undergoing remediation pursuant to the Site Remediation Program. Such a groundwater management zone shall remain in effect until the requirements set forth at 35 Ill. Adm. Code 740.530(c) are met.
- g) While the groundwater management zone established in accordance with 35 Ill. Adm. Code 740.530 is in effect, the otherwise applicable standards as specified in Subpart D of this Part shall not be applicable to the "contaminants of concern", as defined at 35 Ill. Adm. Code 740.120, for which groundwater remediation objectives have been approved in accordance with the procedures of 35 Ill. Adm. Code 740.
- h) Notwithstanding subsections (c)-(e) ~~(e)~~ above, the review requirements concerning the ongoing adequacy of controls and continued management at the site shall not apply to groundwater within a three-dimensional region formerly encompassed by a groundwater management zone established in accordance with 35 Ill. Adm. Code 740.530 while a No Further Remediation Letter issued in accordance with the procedures of 35 Ill. Adm. Code 740 is in effect.
- i) All groundwater management zone applications submitted shall, in addition to Section 620. Appendix D, Parts I, II, and III, contain the following:
 - 1) Facility information. This includes the name, address, and county where the site is located.
 - 2) Identification of specific units (operating or closed) present at the facility.
 - 3) Maps and engineering drawings showing the facility and units at the facility.
 - 4) Statement of the groundwater classification(s) at the facility.
 - 5) Identification of the chemical constituents released into the groundwater.

- 6) Description of how groundwater will be monitored to determine the rate and the extent of the release, and if it has migrated off site.
 - 7) Schedule for investigation of the extent of the release.
 - 8) Results of available soil testing and groundwater monitoring associated with a release, locations, and depths of samples and monitoring well construction details with well logs.
 - 9) Remedy
 - A) Description of selected remedy and why it was chosen;
 - B) Results of groundwater contaminant transport modeling or calculations showing how the selected remedy will achieve compliance with applicable standards in Subpart D;
 - C) Description of the fate and transport of contaminants with selected remedy over time; and
 - D) A statement of how groundwater at the facility will be monitored following implementation of the remedy to ensure compliance with the applicable standards in Subpart D.
 - 10) Information requested by the Agency, necessary for its review of the groundwater management zone application.
- j) At least annually, the Agency shall publish in the Illinois Environmental Register a listing of the groundwater management zones approved that are not subject to Section 620.450(a)(5) and have not expired, along with a brief statement of the groundwater management zone's status.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Dated: March 3, 2023

Sara Terranova
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

BY: /s/ Sara Terranova

CERTIFICATE OF SERVICE

I, the undersigned, on affirmation state the following:

That I have served the attached **NOTICE OF FILING** and **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSE** by e-mail upon the attached service list.

That my e-mail address is: Sara.Terranova@illinois.gov.

That the e-mail transmission took place before 4:30 p.m. on the date of March 3, 2023.

/s/ Sara Terranova

March 3, 2023