

1                   ILLINOIS POLLUTION CONTROL BOARD  
2                   DES PLAINES RIVER WATERSHED  
3 ALLIANCE, LIVABLE COMMUNITIES   )  
4 ALLIANCE, PRAIRIE RIVERS        )  
5 NETWORK, and SIERRA CLUB,        )  
6                   Petitioners,     )  
7       vs.                            ) No. PCB 04-88  
8 ILLINOIS ENVIRONMENTAL            ) (Third-Party NPDES  
9 PROTECTION AGENCY and VILLAGE    ) Permit Appeal)  
10 OF NEW LENOX,                     )  
11                   Respondents.     )

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14                   TRANSCRIPT OF PROCEEDINGS had in the  
15 above-entitled cause on the 30th day of March, A.D.  
16 2006, at 9:00 a.m.

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18 BEFORE: BRADLEY HALLORAN, Hearing Officer,  
19                                   Illinois Pollution  
20                                   Control Board.

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1 APPEARANCES:

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3 ENVIRONMENTAL LAW & POLICY CENTER,

4 35 East Wacker Drive

5 Suite 1300

6 Chicago, Illinois 60601-2110

7 312-795-3707

8 MR. ALBERT F. ETTINGER,

9 appeared on behalf of Petitioners;

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11 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

12 1021 North Grand Avenue East

13 P.O. Box 19276

14 Springfield, Illinois 62794-9276

15 217-782-5544

16 MR. SANJAY K. SOFAT,

17 appeared on behalf of the

18 Environmental Protection Agency;

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1     PRESENT (cont'd.)

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3             GARDNER, CARTON & DOUGLAS,

4             191 North Wacker Drive

5             Suite 3700

6             Chicago, Illinois 60606-1698

7             312-569-14421

8             MR. ROY M. HARSCH,

9                 appeared on behalf of the

10                Village of New Lenox.

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23            REPORTED BY: SHARON BERKERY, C.S.R.

24                 CERTIFICATE NO. 84-4327.

1                   THE HEARING OFFICER: Good morning.  
2                   My name is Bradley Halloran, I'm a hearing  
3                   officer with the Illinois Pollution Control  
4                   Board.

5                   I'm also assigned to this matter,  
6                   PCB04-88. It's entitled, Des Plaines River  
7                   Watershed Alliance, Livable Community  
8                   Alliance, Prairie Rivers Network and Sierra  
9                   Club are the petitioners vs. Illinois  
10                  Environmental Protection Agency and the  
11                  Village of New Lenox.

12                  Today is March 30th, 2006,  
13                  approximately 9:02 a.m. I do want to note,  
14                  for the record, that I do see four members of  
15                  the public who are not affiliated with the  
16                  parties.

17                  I talked with them prior to this  
18                  hearing and they represented they do not wish  
19                  to give public comment.

20                  Is that correct?

21                  UNIDENTIFIED SPEAKERS: That's  
22                  correct.

23                  THE HEARING OFFICER: Okay. Thank  
24                  you.

1 I got a yes.

2 In any event, we're going to run  
3 this hearing as it is, pursuant to  
4 Section 105.214 subpart B and Section 101  
5 subpart F on the board of procedural  
6 provisions. This hearing has been properly  
7 noticed pursuant to the provisions, as well.

8 At this point -- we had talked off  
9 record. The parties represented that they  
10 have no witnesses to represent. They also  
11 represent that they are not going to give a  
12 summation, I think they're going to reserve  
13 that for their post-hearing brief.

14 But, at this point, I'd like for  
15 the parties to introduce themselves.

16 Mr. Ettinger?

17 MR. ETTINGER: I am here.

18 THE HEARING OFFICER: And you  
19 represent the petitioners?

20 MR. ETTINGER: I represent the  
21 petitioners.

22 THE HEARING OFFICER: Okay.

23 MR. SOFAT: Sanjay Sofat, representing  
24 the ILLINOIS EPA.

1                   MR. HARSCH: Roy Harsch of Gardner,  
2                   Carton & Douglas, representing New Lenox.

3                   I do have -- at some appropriate  
4                   time, I would like to make one brief  
5                   statement for the record.

6                   THE HEARING OFFICER: Okay. Terrific.  
7                   You can do that now.

8                   Mr. Harsch.

9                   MR. HARSCH: Yes, sir.

10                  The Village of New Lenox  
11                  respectfully believes the Pollution Control  
12                  Board's order that was entered, with respect  
13                  to the request for discovery, was in error;  
14                  and we reserve the right to challenge in that  
15                  determination, as appropriate, as this case  
16                  moves forward.

17                  THE HEARING OFFICER: And that board  
18                  order you're referring to, I believe, is  
19                  November 7th, 2005?

20                  MR. HARSCH: Yes.

21                  THE HEARING OFFICER: Okay. With that  
22                  said -- also prior to the hearing, the  
23                  parties got together and we made an agreed  
24                  briefing schedule.

1                   What I'm going to do is make the  
2                   public comment due on or before April 17th,  
3                   2006. Mr. Ettinger's brief is due April  
4                   21st, 2006.

5                   Mr. Harsh and Mr. Sofat's brief,  
6                   the respondents, is due May 19th.  
7                   Mr. Ettinger's reply, if any, is due June  
8                   2nd.

9                   And, Mr. Ettinger, if there's not  
10                  enough time to respond, if there are any  
11                  public comments prior to April 21st, please  
12                  respond in the June 2nd reply.

13                  Would that be fine?

14                  MR. ETTINGER: If there are public  
15                  comments made on April 19th --

16                  THE HEARING OFFICER: Seventeenth.

17                  MR. ETTINGER: -- that I deem that I  
18                  need to respond to --

19                  THE HEARING OFFICER: Correct.

20                  MR. ETTINGER: -- you will allow me to  
21                  do that in the reply?

22                  THE HEARING OFFICER: Correct. Yes.

23                  MR. ETTINGER: Fine.

24                  THE HEARING OFFICER: That will be due

1 June 2nd, on or before.

2 With that said, do we have any  
3 other issues to cover before we close?

4 MR. SOFAT: No.

5 MR. HARSCH: No, sir.

6 THE HEARING OFFICER: Okay, thank you.

7 All right. This conclude the  
8 hearing, please drive home safely.

9 It's approximately 9:05, 9:06.

10 Thank you very much.

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1 STATE OF ILLINOIS)

2 ) SS:

3 COUNTY OF COOK )

4 I, SHARON BERKERY, a Certified Shorthand  
5 Reporter of the State of Illinois, do hereby certify  
6 that I reported in shorthand the proceedings had at  
7 the ^ trial ^ hearing ^ meeting ^ arbitration  
8 aforesaid, and that the foregoing is a true,  
9 complete and correct transcript of the proceedings  
10 of said ^ trial ^ hearing ^ meeting ^ arbitration as  
11 appears from my stenographic notes so taken and  
12 transcribed under my personal direction.

13 IN WITNESS WHEREOF, I do hereunto set my  
14 hand at Chicago, Illinois, this 13th day of  
15 April, 2006.

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18 Certified Shorthand Reporter

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20 C.S.R. Certificate No. 84-4327.

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