

January 14, 2004

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
NO. 7002 2030 0007 7702 1644**

Mr. Toby Frevert, Manager
Division of Water Pollution Control
Bureau of Water
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794

Notice of Wading as a Prohibited Use in the Waterways

Dear Mr. Frevert:

This letter is being sent to put the Illinois Environmental Protection Agency (IEPA) on notice that the Metropolitan Water Reclamation District of Greater Chicago (District) will not tolerate any wading in the waterways under the District's jurisdiction, ownership, or control. This letter is in response to the position the IEPA took at the December 16, 2003, Stakeholders Advisory Committee (SAC) meeting. At said meeting, the group discussed the potential uses along two reaches of the North Shore Channel and one reach of the North Branch of the Chicago River extending from North Avenue upstream to the confluence with the North Shore Channel. Wading was reported to have been observed on eight occasions during the period from June 2003 through October 2003 in areas located adjacent to West River Park and Clark Park in Chicago.

Later in the meeting, the group discussed and agreed upon potential uses in these three reaches for consideration in the selection of proposed water quality standards. Wading was included in the selection of potential uses over the objection of Mr. Richard Lanyon, the District's representative on the SAC. In addition, Mr. Harry Walton representing the Environmental Regulatory Group raised concerns regarding liability of public agencies and riparian landowners regarding wading.

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Wading is not an appropriate use for these waterways. The District owns the banks and channel bottom for the entire length of the North Shore Channel and for the North Branch upstream of Belmont Avenue. The District will not allow wading on its property. Additionally, the District prohibits any unauthorized access to its properties and waterways and will certainly not make exceptions to this practice for persons wishing to wade in the waterways. The District has taken great efforts to deter access to its banks by posting along its right-of-way *No Trespassing, NO Swimming, No Hunting* and *No Dumping* signs in plain view. The signs also state that *Violators Will Be Criminally Prosecuted*. The District's police force will be patrolling these areas where wading is occurring and will make arrests accordingly to anyone trespassing on District land.

Although the risks of wading are quite obvious, they are listed below to remind the IEPA of the potential hazards. These hazards include:

- Drowning from becoming stuck in soft mud on the river bottom and falling into the water;
- Drowning from becoming sucked under the water surface by currents in the waterway;
- Falling while climbing fences intended to restrict access to waterways;
- Tripping on steep riverbanks covered with debris and fallen timber; and
- Lacerations on the feet and limbs from broken glass, sharp metal, and rocks lying on the river bottom.

The District will not allow itself to be placed in the position of exposing itself to potential lawsuits and ultimate liability resulting from personal injury or death to those who may engage in this practice or in similar practices involving bodily contact with the water in these waterways. To list wading as a potential use of these waterways reaches, the IEPA is deviating from its task of promoting public health and safety and is instead promoting a practice that can result in deadly consequences.

Until the IEPA is able to secure commitments from one or more municipal corporation properly authorized to conduct recreation activities to construct, operate, and maintain safe wading areas along these and other reaches of the waterway system, the District will not even consider such blatantly irresponsible and cavalier positions of the IEPA by listing wading as a potential use for these three waterway reaches. Any violator of the District rules and regulations will be criminally prosecuted.

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If you have any questions regarding this matter, you may contract Mr. Richard Lanyon at (312) 751-5190.

Very truly yours,

John C. Farnan
General Superintendent

JCF:MGR:STM:nm
cc: Rob Sulski, IEPA
Ronald, French, Camp, Dresser & McGee