

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
)  
WATER QUALITY STANDARDS AND )  
EFFLUENT LIMITATIONS FOR THE ) R08-9  
CHICAGO AREA WATERWAY SYSTEM ) (Rulemaking – Water)  
AND THE LOWER DES PLAINES RIVER: )  
PROPOSED AMENDMENTS TO 35 Ill. )  
Adm. Code Parts 301, 302, 303 and 304 )

**NOTICE OF FILING**

TO: Mr. John T. Therriault,	Ms. Marie E. Tipsord
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 West Randolph Street	100 West Randolph Street
Suite 11-500	Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
<b>(VIA ELECTRONIC MAIL)</b>	<b>(VIA FIRST CLASS MAIL)</b>

**(SEE PERSONS ON ATTACHED SERVICE LIST)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the **ENTRY OF APPEARANCE OF MATTHEW C. READ** and **PRE-FILED TESTIMONY OF ALAN L. JIRIK**, copies of which are herewith served upon you.

Respectfully submitted,

CORN PRODUCTS  
INTERNATIONAL, INC.,

Dated: August 4, 2008

By: /s/ Katherine D. Hodge  
One of Its Attorneys

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**CERTIFICATE OF SERVICE**

I, Katherine D. Hodge, the undersigned, hereby certify that I have served the attached ENTRY OF APPEARANCE OF MATTHEW C. READ and PRE-FILED

TESTIMONY OF ALAN L. JIRIK upon:

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via electronic mail on August 4, 2008; and upon:

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AND THE LOWER DES PLAINES RIVER: )  
PROPOSED AMENDMENTS TO 35 Ill. )  
Adm. Code Parts 301, 302, 303 and 304 )

**ENTRY OF APPEARANCE OF MATTHEW C. READ**

NOW COMES Matthew C. Read, of the law firm HODGE DWYER

ZEMAN, and hereby enters his appearance in this matter on behalf of Corn Products  
International, Inc.

Respectfully submitted,

By: /s/ Matthew C. Read  
Matthew C. Read

Dated: August 4, 2008

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SYSTEM AND THE LOWER DES )  
PLAINES RIVER: PROPOSED )  
AMENDMENTS TO 35 Ill. Adm. Code )  
Parts 301, 302, 303 and 304 )

**PRE-FILED TESTIMONY OF ALAN L. JIRIK**

NOW COMES Corn Products International, Inc. (“Corn Products”), by and through its attorneys, HODGE DWYER ZEMAN, and submits the following Pre-Filed Testimony of Alan L. Jirik for presentation at the September 8, 9, and 10, 2008 hearings scheduled in the above-referenced matter. Please note that Mr. James E. Huff will also testify on behalf of Corn Products. Because Mr. Huff is providing testimony for both Corn Products and Citgo Petroleum Corporation (“Citgo”), counsel for Citgo, Mr. Jeffrey Fort of Sonnenschein Nath & Rosenthal LLP, will file Mr. Huff’s Pre-Filed Testimony.

**TESTIMONY OF ALAN L. JIRIK**

Good Morning. My name is Alan L. Jirik, and I am the Vice President of Regulatory Affairs at Corn Products International, Inc. (“Corn Products”). On behalf of Corn Products, I would like to thank the Illinois Pollution Control Board (“Board”) for the opportunity to present this testimony today. According to the Hearing Officer’s Order on May 19, 2008, testimony may be presented on September 8, 9, and 10, 2008 regarding the use designations of the waterways impacted by this rulemaking. Accordingly, Corn Products is presenting testimony at this hearing related to the use designations appropriate for the Chicago Sanitary and Ship Canal (“Sanitary & Ship

Canal”). Furthermore, Corn Products plans to submit and present testimony related to the appropriate water quality standards and economic feasibility of implementing those standards but believes that such testimony is incumbent upon testimony relative to use designations. Therefore, pursuant to the Hearing Officer’s Order, Corn Products intends to submit testimony related to appropriate water quality standards and economic feasibility of implementing those standards at a later time.

Corn Products’ Argo Plant (“Argo Plant”), located at 6400 Archer Avenue in Bedford Park, processes corn and produces a variety of food products and ingredients including corn sweeteners, starches, edible oils, and animal feeds. The Argo Plant withdraws waters from the Sanitary & Ship Canal for non-contact cooling and returns the heated non-contact cooling water back into the Sanitary & Ship Canal. The discharge point is located between Harlem Avenue and La Grange Road. As future testimony will explain, this use of non-contact cooling is quite important in maintaining the economic vitality of the plant.

The Illinois Environmental Protection Agency (“IEPA”) proposes to designate this segment of the Sanitary & Ship Canal as “Incidental Contact Recreation Waters” and “Chicago Area Waterway System and Brandon Pool Aquatic Life Use B Waters.” IEPA Proposed Amendments at 35 Ill. Admin. Code §§ 303.220 and 303.235.

Corn Products believes that the Sanitary & Ship Canal is a unique water body, sufficiently different from the other waterways affected by this rulemaking to necessitate its own use designation and offers the following testimony in support of this approach.

The Sanitary & Ship Canal is a relatively recently created artificial man-made channel that was mined and excavated through limestone bedrock. Daniel E. Capano, *Chicago's War with Water*, American Heritage, Spring 2003 Vol. 18, Issue 4, available at [http://www.americanheritage.com/articles/magazine/it/2003/4/2003\\_4\\_50.shtml](http://www.americanheritage.com/articles/magazine/it/2003/4/2003_4_50.shtml). The Sanitary & Ship Canal was created for the primary purpose of reversing the flow of the Chicago River to transport human waste and diseases away from Lake Michigan. Chicago Area Waterway System Use Attainability Analysis Final Report, CDM, Aug. 2007, 3-16 (hereinafter "CAWS UAA"). Indeed, this function remains important even today as evidenced by advisories and beach closings that often result when the locks are opened to prevent urban flooding during extreme rain events. Cassandra Marie Profita, *The Wayfaring Waters of the Windy City*, National Geographic Magazine, Sept. 2002, [http://ngm.nationalgeographic.com/ngm/0209/feature2/online\\_extra.html](http://ngm.nationalgeographic.com/ngm/0209/feature2/online_extra.html). Thus, from both a functional and physical perspective, the Sanitary & Ship Canal is more like an aqueduct than a natural stream or river.

The Sanitary & Ship Canal also provides commercially important navigation between the Great Lakes and Mississippi River. CAWS UAA 3-2. The Sanitary & Ship Canal continues to provide primary transport of industrial materials such as sand, gravel, coal, cement, and fuel oils. CAWS UAA at 3-2. Such heavy industrial traffic limits recreational opportunities. CAWS UAA at 3-3. Small boats cannot safely navigate the Sanitary & Ship Canal because of the wakes from larger boats and barges. CAWS UAA at 3-3. Furthermore, recreational users would have an "extremely difficult" time exiting the water because of the steep banks. CAWS UAA at 3-3. In fact, the Metropolitan

Water Reclamation District of Greater Chicago (“MWRDGC”) prohibits wading in the Sanitary & Ship Canal. *In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code Parts 301, 302, 303 and 304*, R08-9 (Ill.Pol.Control.Bd. Oct. 26, 2007) Statement of Reasons (“Statement of Reasons”) at 36. Similarly, the trend of development along the Sanitary & Ship Canal is primarily industrial and commercial uses. CAWS UAA at 3-3. MWRDGC, the largest landowner along the Sanitary & Ship Canal, leases a majority of the land along the banks of the Sanitary & Ship Canal to industrial users who do not support or encourage public or pedestrian activities along the Sanitary & Ship Canal. CAWS UAA at 3-3.

The IEPA recognizes that the Sanitary & Ship Canal receives discharges from a number of significant facilities. Statement of Reasons at 103. Further, the IEPA acknowledges that thermal discharges are a noteworthy group of sources in the Sanitary & Ship Canal, and that such dischargers include Midwest Generation electric generating stations, grain processing facilities, and petroleum refineries. *Id.* Of note, the Fisk and Crawford Midwest Generation electrical generating plants are located upstream from the Argo Plant and discharge primarily heated non-contact cooling water into the Sanitary & Ship Canal and the South Branch of the Chicago River just before its confluence with the Sanitary & Ship Canal. Additionally, MWRDGC’s Stickney Wastewater Treatment Plant discharges treated wastewater upstream from the Argo Plant. CAWS UAA at 3-3. The MWRDGC Stickney Plant is MWRDGC’s largest wastewater treatment plant and one of the largest in the world, with an average design flow of 1.2 billion gallons per day

("BGD") and a design maximum flow of 1.4 BGD. CAWS UAA at 3-3. In fact, on an annual basis, municipal treatment plants contribute seventy percent of the total flow of the Sanitary & Ship Canal. CAWS UAA at 1-6. Likewise, the two upstream power plants can utilize up to 725.5 MGD collectively. IEPA Public Notice/Fact Sheets for NPDES Permit No. IL0002178, Fisk Generating Station, April 1, 2007 and NPDES Permit No. IL0002186, Crawford Generating Station, April 4, 2007. Thus, a large percentage of the water in the Sanitary & Ship Canal has been used, in some cases multiple times, and recycled. This water segment also receives combined sewer overflow discharges which add additional extreme unpredictable transient impacts. CAWS UAA at 3-2 – 3-3.

The unnatural creation of this water body (i.e. a channel carved through limestone by human hands) and resulting steep walled/hard rock nature of the Sanitary & Ship Canal creates a harsh aquatic environment with limited habitat as evidenced by the low IBI scores. Statement of Reasons at 50. This is not unexpected as the harsh conditions of an artificial water body such as this would naturally discourage colonization. The physical habitat in the Sanitary & Ship Canal ranges from poor to very poor and thus restricts the diversity of aquatic life supportable by the Sanitary & Ship Canal.

Attachment R: Analysis of Physical Habitat Quality and Limitations to Waterways in the Chicago Area, Edward T. Rankin, p.11, 2005. Much of the bank along the Sanitary & Ship Canal consists of vertical concrete or rock walls, or steep earth or rock slopes. CAWS UAA at 3-3. Furthermore, an electric field barrier has been constructed in the Sanitary & Ship Canal to prevent the migration of aquatic nuisance species into Lake

Michigan. CAWS UAA at 3-3. In addition to preventing the movement of nuisance species, the barrier also blocks the movement of all species, both native and non-native through the Sanitary & Ship Canal. CAWS UAA at 3-4. Taken from a biological perspective, the Sanitary & Ship Canal therefore essentially terminates at the fish barrier. Further, IEPA acknowledges that a balanced indigenous population of fish cannot be attained in the Sanitary & Ship Canal in the foreseeable future. Testimony of Roy Smoger, Jan. 28, 2008 Hearing Transcript at 116. Our consultant, Mr. James Huff will testify about these biological aspects in greater detail.

The Board recognized the unique industrial character of the Sanitary & Ship Canal when granting an adjusted standard to allow alternate thermal standards at three electrical generating plants discharging into the Sanitary & Ship Canal, including the Fisk and Crawford stations upstream from the Corn Products' Plant. *See In the Matter of: Petition of Commonwealth Edison Company for Adjusted Standard from 35 Ill. Admin. Code §§ 302.211(d) and (e)*, AS 96-10 (Ill.Pol.Control.Bd. Oct. 3, 1996). In its discussion of the environmental impact from the adjusted standard, the Board explained that the Sanitary & Ship Canal is “greatly modified by use as a shipping channel with habitat limited to deep pools without shallows, structure, riffles of suitable substrates.” *Id.* at 6. Further, the area is “heavily developed with industries” and the waterway is “significantly modified” and “limited in terms of habitat.” *Id.* Finally, historical use of the waterway has caused “substantial residual chemical contamination to be present in the sediments.” *Id.*

To conclude, it is abundantly clear that the Sanitary & Ship Canal is a unique water body. It is an artificial water body created and designed to abate pollution while serving a variety of industrial purposes. Corn Products believes that the Sanitary & Ship Canal is not appropriate for recreational use because of its inherent design and function, and as will be testified to by Mr. Huff, is capable of supporting only minimal aquatic life. Because of these unique features, a separate designation such as a “use C” water is needed to properly address the unique aspects of this water body.

Thank you for the opportunity to testify today.

\* \* \*

CORN PRODUCTS INTERNATIONAL, INC. reserves the right to supplement this pre-filed testimony.

Respectfully submitted,

CORN PRODUCTS INTERNATIONAL,  
INC.

By: /s/ Katherine D. Hodge  
One of Its Attorneys

Dated: August 4, 2008

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