

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

PROPOSED SITE SPECIFIC)
RULE FOR CITY OF SPRINGFIELD,)
ILLINOIS, OFFICE OF PUBLIC)
UTILITIES, CITY WATER, LIGHT) R09-8
AND POWER AND SPRINGFIELD) (Site Specific Rulemaking – Water)
METRO SANITARY DISTRICT)
FROM 35 ILL. ADM. CODE)
SECTION 302.208(g))

NOTICE OF FILING

TO: Mr. John Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board PETITIONERS' STATEMENT ADDRESSING SECTION 102.210(c), a copy of which are herewith served upon you.

Respectfully submitted,

CITY OF SPRINGFIELD, ILLINOIS,
OFFICE OF PUBLIC UTILITIES,
CITY WATER, LIGHT AND POWER

and

SPRINGFIELD METRO SANITARY
DISTRICT,

Date: September 22, 2008

By: /s/ Christine G. Zeman
One of Their Attorneys

Katherine D. Hodge
Christine G. Zeman
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

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PETITIONERS' STATEMENT
ADDRESSING SECTION 102.210(c)

NOW COMES the Petitioners, City of Springfield, Illinois, Office of Public Utilities, City Water, Light and Power and Springfield Metro Sanitary District (collectively "Petitioners"), by and through their attorneys, HODGE DWYER ZEMAN, regarding the request of the Illinois Pollution Control Board ("Board") to address Section 102.210(c) of the Board's procedural rules states as follows:

1. On September 16, 2008, the Board issued First Notice on Petitioners' Proposed Rule. In its Opinion and Order, the Board finds that the petition, filed August 28, 2008, meets the content requirements of 35 Ill. Adm. Code 102.208 and 102.210, but also requests that Petitioners address the "published study or report" requirement of Section 102.210(c), also citing Section 102.210(g). 35 Ill. Adm. Code 102.210(c) and (g).

2. Section 102.210(c) provides that a regulatory proposal must set forth:

A descriptive title or other description of any published study or research report used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data

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are not protected from disclosure under the Freedom of Information Act [5ILCS 140]. [5 ILCS 100/5-40(3.5)]

35 Ill. Adm. Code § 102.210(c).

3. Section 102.210(g) provides:

When any information required under this Section is inapplicable or unavailable, the proposal must provide a complete justification for the inapplicability or unavailability.

35 Ill. Adm. Code § 102.210(g).

4. Petitioners state that Section 102.210(c) is inapplicable because, in developing the proposed rule, it relied on a heretofore unpublished study or report prepared by Hanson Professional Services, Inc. Nevertheless, while Section 102.210(c) is inapplicable, the unpublished report it relied upon in developing the proposed rule is an exhibit to its petition. The heretofore unpublished report used in developing the rule is entitled *Technical Support Document for Site-Specific Boron Standard for the Springfield Metro Sanitary District Spring Creek Plant, Sangamon County, Illinois*, was prepared by Hanson Professional Services, Inc., and is dated August 2008; this report is Exhibit A of its petition. Thus, said report is now available to the public through the Board and the Board's website.

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WHEREFORE, Petitioners, City of Springfield, Illinois, Office of Public Utilities, City Water, Light and Power and Springfield Metro Sanitary District respectfully submit this statement addressing Section 102.210(c) of the Board's procedural rules.

CITY OF SPRINGFIELD, ILLINOIS,
OFFICE OF PUBLIC UTILITIES,
CITY WATER, LIGHT AND POWER

and

SPRINGFIELD METRO SANITARY DISTRICT,

Date: September 22, 2008

By: /s/ Christine G. Zeman
One of Their Attorneys

Katherine D. Hodge
Christine G. Zeman
HODGE DWYER ZEMAN
3150 Roland Avenue
P.O. Box 5776
Springfield, Illinois 62705
(217) 523-4900

CWLP:002/Fil/ Statement Addressing § 102.210(c)

CERTIFICATE OF SERVICE

I, Christine G. Zeman, the undersigned, certify that I have served the attached

PETITIONERS' STATEMENT ADDRESSING SECTION 102.210(c), upon:

Mr. John Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Albert F. Ettinger, Esq.
for Prairie Rivers Network
c/o Environmental Law and Policy Center
35 East Wacker Drive
Suite 1300
Chicago, Illinois 60601
aettinger@elpc.org

via electronic mail on September 22, 2008; and upon:

Joey Logan-Wilkey, Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Matthew Dunn, Chief
Environmental Bureau
Office of the Attorney General
69 West Washington Street, 18th Floor
Chicago, Illinois 60602

Bill Richardson, Chief Legal Counsel
Illinois Department of Natural Resources
One Natural Resources Way
524 S. Second Street
Springfield, Illinois 62702-1271

by depositing said documents in the United States Mail, postage prepaid, in Springfield,
Illinois on September 22, 2008.

By: /s/ Christine G. Zeman
Christine G. Zeman