

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**RECEIVED  
CLERK'S OFFICE**

JAN 25 2010

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 )

**STATE OF ILLINOIS  
Pollution Control Board**

R08-09  
(Rulemaking – Water)

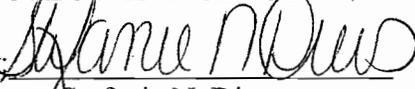
**NOTICE OF FILING**

To: John Therriault, Clerk  
Marie Tipsord, Hearing Officer  
James R. Thompson Center  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

**SEE ATTACHED SERVICE LIST**

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board RESPONSE TO CITGO'S MOTION FOR HEARING a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Stefanie N. Diers  
Assistant Counsel

Dated: January 21, 2010  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**



BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

JAN 25 2010

STATE OF ILLINOIS  
Pollution Control Board

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

RESPONSE TO CITGO'S MOTION FOR HEARING

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits its response to CITGO's Motion for a Hearing on the Impact of the Litigation Before the United States Supreme Court Relating to the Migration of Asian Carp Through the Chicago Sanitary and Ship Canal. In support of its Motion, Illinois EPA states as follows:

1. On January 7, 2010, CITGO filed its Motion for Hearing with the Illinois Pollution Control Board.
2. On January 11, 2010, the Illinois EPA received CITGO's Motion for Hearing.
3. CITGO is asking the Board to investigate the current status of third party litigation before the United States Supreme Court. Specifically, CITGO is asking for a hearing for the purposes of receiving information from the current "uses" of the Ship Canal, how those uses might be changes by the recent litigation filed before the Supreme Court, and to consider this information in managing the docket going forward. (CITGO's Motion, P. 1).
4. It is the position of the Illinois EPA that CITGO's Motion for a Hearing should be denied.
5. CITGO's Motion is premature and unnecessary at this time.

6. On January 19, 2010, the United States Supreme Court denied Michigan and other Great Lakes States' Motion for a Preliminary Injunction. Therefore, the issues raised by CITGO are speculative at this point in time.

7. Illinois EPA understands CITGO's concerns regarding the Asian Carp, but to have a hearing now is premature at best. It is unclear at this time what action will be taken by the various States based on the recent Supreme Court decision.

8. Furthermore, allowing a hearing at this time on these premature issues would unnecessarily delay the current rulemaking before the Board.

9. Finally assuming the Board was to decide a hearing is necessary, it is not even clear who would provide information to the Board concerning the issues CITGO is now trying to raise. Illinois EPA is not a party to the suit filed by Michigan and the other Great Lake States and therefore would not be in a position to provide additional information to the Board with respect to CITGO's Motion.

WHEREFORE, the Illinois EPA respectfully requests that CITGO's Motion For Hearing on the Impact of the Litigation before the United States Supreme Court Relating to the Migration of the Asian Carp Through the Chicago Sanitary and Ship Canal be denied.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By 

Stefanie N. Diers  
Assistant Counsel  
Division of Legal Counsel

DATED: January 21, 2010

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Post Office Box 19276  
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STATE OF ILLINOIS  
COUNTY OF SANGAMON

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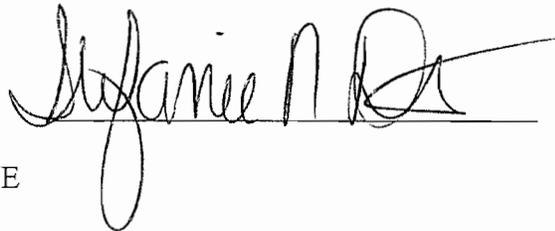
**PROOF OF SERVICE**

I, the undersigned, on oath state that I have served the attached RESPONSE TO  
CITGO'S MOTION FOR HEARING upon the person to whom it is directed by placing it an  
envelope addressed to:

John Therriault, Clerk  
Marie Tipsord, Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

**SEE ATTACHED SERVICE LIST**

and mailing it First Class Mail from Springfield, Illinois on January 21, 2010, with sufficient  
postage affixed.



SUBSCRIBED AND SWORN TO BEFORE ME

This 21st day of January 2010



Notary Public



**THIS FILING IS SUBMITTED ON RECYCLED PAPER**



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