

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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)

R08-09
(Rulemaking – Water)

RECEIVED
CLERK'S OFFICE

MAR 08 2010

STATE OF ILLINOIS
Pollution Control Board

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

ORIGINAL

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board ILLINOIS EPA'S RESPONSE TO ENVIRONMENTAL GROUPS MOTION TO SEVER, OPEN SUBDOCKET AND PROCEED TO DECISION CONCERNING RECREATIONAL USES a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: Stefanie N. Diers
Stefanie N. Diers
Assistant Counsel

Dated: March 4, 2010
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THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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CLERK'S OFFICE
MAR 08 2010
STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF :)
)
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.)

ILLINOIS EPA'S RESPONSE TO ENVIRONMENTAL GROUPS MOTION TO SEVER, OPEN SUBDOCKET AND PROCEED TO DECISION CONCERNING RECREATIONAL USES

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits its response to the Environmental Groups Motion to Sever, Open Subdocket and Proceed to Decision Concerning Recreational Uses. In support of its Motion, Illinois EPA states as follows:

1. On February 3, 2010, the Environmental Groups filed its Motion with the Illinois Pollution Control Board.
2. On February 5, 2010, the hearing officer ordered that all responses to the Motion were due by March 8, 2010.
3. The Environmental Groups are asking the Board to sever and open a subdocket to address issues in the proceeding concerning the proposed Chicago Area Waterway System ("CAWS") recreational use designation. (Motion, P. 1). The Environmental Groups argue that the recreational use designation is ripe for decision and by severing the docket the Board should proceed to a decision on the recreational issues. (Motion, P. 5). It should be noted that the Motion does not refer to the "Lower Des Plaines River." Should the Board decided to sever the docket, Illinois EPA would suggest that the Lower

Des Plaines River recreational use designations be included with the discussions concerning the CAWS recreational use designations.

4. First, Illinois EPA would like to make some clarifications with respect to statements made in the Environmental Groups' Motion.

5. The Environmental Groups state that "with respect to recreations use, various portions of the CAWS were upgraded from secondary contact use to 'limited contact recreation', 'non-contact recreation', or 'non recreational.'" (Motion, P. 2).

6. It is not accurate in all cases to refer to the proposed use designations as upgrade uses. It is more accurate from Illinois EPA's perspective to refer to the proposed uses as new or updated use designations.

7. The Environmental Groups state that, "Specifically, IEPA proposed a requirement that discharges to the CAWS between March and November not exceed 400 colony forming units per 100 milliliters ("cfu/100 ml") of fecal coliform (an indicator bacteria), which is the standard currently in effect for discharges into general use waters throughout the state." (Motion, P. 3)

8. The General Use standard in 35 Ill. Adm. Code 304.121 is not limited to the recreational season. It applies all year. However, the standard that applies to dischargers to General Use waters allows facilities to request seasonal or year round exemptions from the requirement. Illinois EPA's proposal in this proceeding has built a seasonal exemption into the standards for only the waters addressed in R08-09. Additionally, the recreational season for General Use is 6 months and the proposal currently before the Board has a recreational season consisting of a 9 month time period but would only apply to the "limited contact recreation" and "non-contact recreation" proposed uses.

9. Finally, with respect to the issue of severing the docket, the Illinois EPA will support any procedural mechanism that would bring this process to the most orderly and expeditious conclusion and will defer to the Board as to the appropriate procedural mechanism to address concerns regarding State resources and docket management.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Stefanie N. Diers
Assistant Counsel
Division of Legal Counsel

DATED: March 4, 2010

Illinois Environmental Protection Agency
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Post Office Box 19276
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(217) 782-5544

STATE OF ILLINOIS

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SS

COUNTY OF SANGAMON

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached ILLINOIS EPA'S RESPONSE TO ENVIRONMENTAL GROUPS MOTION TO SEVER, OPEN SUBDOCKET AND PROCEED TO DECISION CONCERNING RECREATIONAL USES 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 March 4, 2010, with sufficient postage affixed.

Cindy Wolfe

SUBSCRIBED AND SWORN TO BEFORE ME

This 4th day of March, 2010

Brenda Boehner
Notary Public



THIS FILING IS SUBMITTED ON RECYCELD PAPER

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