

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

WATER QUALITY STANDARDS AND)
EFFLUENT LIMITATIONS FOR THE) R08-9(A)
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
(VIA ELECTRONIC MAIL)	(VIA FIRST CLASS MAIL)

(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 **COMMENTS ON PROPOSED RECREATIONAL USE DESIGNATION FOR THE LOWER DES PLAINES RIVER** on behalf of ExxonMobil Oil Corporation, a copy of which is herewith served upon you.

Respectfully submitted,

EXXONMOBIL OIL CORPORATION,

Dated: April 15, 2010

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

Katherine D. Hodge
Monica T. Rios
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, hereby certify that I have served the attached COMMENTS ON PROPOSED RECREATIONAL USE DESIGNATION FOR THE LOWER DES PLAINES RIVER upon:

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

via electronic mail on April 15, 2010; and upon:

Ms. Marie E. Tipsord
Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Matthew J. Dunn, Esq.
Andrew Armstrong, Esq.
Susan Hedman, Esq.
Environmental Enforcement Division
Office of the Attorney General
State of Illinois
69 West Washington, 18th Floor
Chicago, Illinois 60602

Deborah J. Williams, Esq.
Stefanie N. Diers, Esq.
Illinois Environmental
Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Roy M. Harsch, Esq.
Drinker, Biddle, Gardner, Carton
191 North Wacker Drive
Suite 3700
Chicago, Illinois 60606-1698

Frederick M. Feldman, Esq.
Ronald M. Hill, Esq.
Mr. Louis Kollias
Margaret T. Conway
Metropolitan Water
Reclamation District
100 East Erie Street
Chicago, Illinois 60611

Claire A. Manning, Esq.
Brown, Hay & Stephens, LLP
700 First Mercantile Bank Building
205 South Fifth Street
Post Office Box 2459
Springfield, Illinois 62705-2459

Kevin G. Desharnais, Esq.
Thomas W. Dimond, Esq.
Thomas V. Skinner, Esq.
Jennifer A. Simon, Esq.
Mayer, Brown LLP
71 South Wacker Drive
Chicago, Illinois 60606-4637

Mr. Robert VanGyseghem
City of Geneva
1800 South Street
Geneva, Illinois 60134-2203

Jerry Paulsen, Esq.
Cindy Skrukud, Esq.
McHenry County Defenders
132 Cass Street
Woodstock, Illinois 60098

Mr. Bernard Sawyer
Mr. Thomas Granato
Metropolitan Water
Reclamation District
6001 West Pershing Road
Cicero, Illinois 60650-4112

Ms. Lisa Frede
Chemical Industry Council of Illinois
1400 East Touhy Avenue
Suite 110
Des Plaines, Illinois 60019-3338

Fredric P. Andes, Esq.
Erika K. Powers, Esq.
Barnes & Thornburg
1 North Wacker Drive
Suite 4400
Chicago, Illinois 60606

Mr. James L. Daugherty
Thorn Creek Basin Sanitary District
700 West End Avenue
Chicago Heights, Illinois 60411

Tracy Elzemeyer, Esq.
American Water Company
727 Craig Road
St. Louis, Missouri 63141

Margaret P. Howard, Esq.
Hedinger Law Office
2601 South Fifth Street
Springfield, Illinois 62703

Mr. Keith I. Harley
Ms. Elizabeth Schenkler
Chicago Legal Clinic, Inc.
205 West Monroe Street
4th Floor
Chicago, Illinois 60606

Frederick D. Keady, P.E.
Vermilion Coal Company
1979 Johns Drive
Glenview, Illinois 60025

Mr. Mark Schultz
Navy Facilities and
Engineering Command
201 Decatur Avenue, Bldg. 1A
Great Lakes, Illinois 60088-2801

W.C. Blanton, Esq.
Husch Blackwell Sanders LLP
4801 Main Street
Suite 1000
Kansas City, Missouri 64112

Mr. Dennis L. Duffield
City of Joliet, Department of Public
Work and Utilities
921 East Washington Street
Joliet, Illinois 60431

Ms. Kay Anderson
American Bottoms RWTF
One American Bottoms Road
Sauget, Illinois 62201

Mr. Jack Darin
Sierra Club
70 East Lake Street
Suite 1500
Chicago, Illinois 60601-7447

Mr. Bob Carter
Bloomington Normal Water
Reclamation District
Post Office Box 3307
Bloomington, Illinois 61702-3307

Mr. Tom Muth
Fox Metro Water Reclamation District
682 State Route 31
Oswego, Illinois 60543

Mr. Kenneth W. Liss
Andrews Environmental Engineering
3300 Ginger Creek Drive
Springfield, Illinois 62711

Albert Ettinger, Esq.
Jessica Dexter, Esq.
Environmental Law & Policy Center
35 East Wacker
Suite 1300
Chicago, Illinois 60601

Ms. Vicky McKinley
Evanston Environment Board
223 Grey Avenue
Evanston, Illinois 60202

Mr. Marc Miller
Mr. Jamie S. Caston
Office of Lt. Governor Pat Quinn
Room 414 State House
Springfield, Illinois 62706

Susan M. Franzetti, Esq.
Nijman Franzetti LLP
10 South LaSalle Street
Suite 3600
Chicago, Illinois 60603

Mr. Irwin Polls
Ecological Monitoring and Assessment
3206 Maple Leaf Drive
Glenview, Illinois 60025

Dr. Thomas J. Murphy
2325 North Clifton Street
Chicago, Illinois 60614

Ms. Cathy Hudzik
City of Chicago – Mayor's Office
of Intergovernmental Affairs
121 North LaSalle Street
City Hall – Room 406
Chicago, Illinois 60602

Stacy Meyers-Glen, Esq.
Openlands
25 East Washington Street
Suite 1650
Chicago, Illinois 60602

Ms. Beth Steinhour
2021 Timberbrook
Springfield, Illinois 62702

Mr. Lyman C Welch
Alliance for the Great Lakes
17 N. State St., Suite 1390
Chicago, Illinois 60602

Mr. James Huff
Huff & Huff, Inc.
915 Harger Road
Suite 330
Oak Brook, Illinois 60523

Ann Alexander, Esq.
Natural Resources Defense Council
101 North Wacker Drive
Suite 609
Chicago, Illinois 60606

Ms. Traci Barkley
Prairie Rivers Network
1902 Fox Drive
Suite 6
Champaign, Illinois 61820

Kristy A. N. Bulleit, Esq.
Hunton & Williams LLC
1900 K Street, NW
Washington, DC 20006

Aeril J. Teshler, Esq.
Jeffrey C. Fort, Esq.
Sonnenschein Nath &
Rosenthal
233 South Wacker Drive
Suite 7800
Chicago, Illinois 60606-6404

by depositing said documents in the United States Mail, postage prepaid, in
Springfield, Illinois on April 15, 2010.

/s/Katherine D. Hodge
Katherine D. Hodge

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

WATER QUALITY STANDARDS AND)
EFFLUENT LIMITATIONS FOR THE) R08-9(A)
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)

**COMMENTS ON PROPOSED RECREATIONAL USE
DESIGNATION FOR THE LOWER DES PLAINES RIVER**

NOW COMES EXXONMOBIL OIL CORPORATION (“ExxonMobil”), by and through its attorneys, HODGE DWYER & DRIVER, and pursuant to the Illinois Pollution Control Board (“Board”) Order, dated March 18, 2010, submits the following COMMENTS ON PROPOSED RECREATIONAL USE DESIGNATION FOR THE LOWER DES PLAINES RIVER.

I. INTRODUCTION

On August 4, 2008, ExxonMobil submitted the Pre-filed Testimony of Robert S. Elvert to the Board in preparation for hearings in this matter. *Pre-Filed Testimony of Robert S. Elvert, 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 (Ill.Pol.Control.Bd. Aug. 4, 2008) (rulemaking hereafter cited as “R08-09”). On August 13, 2009, Mr. Elvert testified before the Board on ExxonMobil’s safety and security concerns regarding the proposed recreational use designation for the segment of the Lower Des Plaines River (“LDPR”) upon which ExxonMobil’s Joliet Refinery (“Refinery”) is located. Hearing Transcript (afternoon), R08-09 at 16-51

(Ill.Pol.Control.Bd. Aug. 13, 2009). Recently, the Board split the R08-09 proceeding into four dockets and determined that the “issue of recreational use designations in Subdocket A is ripe for decision.” Board Order, R08-09 (Ill.Pol.Control.Bd. Mar. 18, 2010) (hereafter “Order”). Subsequently, the hearing officer ordered that participants submit final comments on the Illinois Environmental Protection Agency’s (“Illinois EPA”) proposed recreational uses by April 15, 2010. Hearing Officer Order, R08-09 (Ill.Pol.Control.Bd. Mar. 18, 2010). The following comments briefly reiterate ExxonMobil’s concerns regarding the safety and security along the LDPR.

II. SAFETY AND SECURITY ISSUES

The Illinois EPA proposed to designate the Upper Dresden Island Pool of the LDPR as incidental contact for recreational use purposes. Such a designation will encourage increased recreational use of the stretch of the LDPR where the Refinery is located. In terms of safety, there is constant barge and tugboat traffic up and down and back and forth across the LDPR, which poses a threat to recreational users, especially during times when more than one barge or tugboat is travelling through the vicinity, since there is limited room for recreational users to maneuver safely.

In addition, ExxonMobil is concerned with the security of the Refinery. The Refinery is a federally protected energy facility and a U.S. Coast Guard governed facility, which requires that the Refinery implement increased security measures. Since the incidental contact designation will encourage more recreational users along the stretch of the LDPR where the Refinery is located, there will be increased security risks for the Refinery due to the increased number of recreational users. Further, ExxonMobil encourages the Illinois EPA and other government officials to meet with LDPR

stakeholders to discuss safety and security concerns since, unlike for the CAWS stakeholders, there has been no meeting for LDPR facilities to discuss their safety and security concerns.

III. CONCLUSION

It is ExxonMobil's understanding that the United States Environmental Protection Agency ("USEPA") intends to submit comments on the Illinois EPA's proposed recreational use designations. Accordingly, ExxonMobil reserves the right to supplement this filing should any of USEPA's recommendations warrant additional comment by ExxonMobil.

ExxonMobil appreciates the opportunity to provide these comments, and it respectfully requests that the Board consider ExxonMobil's filings and testimony in its decision on recreational use designations.

Respectfully submitted,

EXXONMOBIL OIL CORPORATION,

By: /s/ Katherine D. Hodge
Katherine D. Hodge

Dated: April 15, 2010

Katherine D. Hodge
Monica T. Rios
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

MOBO:041/Fil/Comments on Proposed Recreational Use Designation for the Lower Des Plaines River