

**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 III. ) Subdocket B  
Adm. Code Parts 301, 302, 303 and 304 )

**NOTICE OF FILING**

TO: See Attached Service List

PLEASE TAKE NOTICE that on the 29th day of June, 2010, I filed with the Office of the Clerk of the Illinois Pollution Control Board the attached Response by the People of the State of Illinois in Opposition to Metropolitan Water Reclamation District Of Greater Chicago's Motion For Leave To File and Set a Hearing on the UIC CHEERS Report in IPCB R08-9, copies of which are hereby served upon you.

Respectfully submitted,

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PROPOSED AMENDMENTS TO 35 III. ) Subdocket B  
Adm. Code Parts 301, 302, 303 and 304 )

**RESPONSE BY THE PEOPLE OF THE STATE OF ILLINOIS  
IN OPPOSITION TO METROPOLITAN WATER RECLAMATION DISTRICT OF  
GREATER CHICAGO'S MOTION FOR LEAVE TO FILE AND SET A HEARING ON  
THE UIC CHEERS REPORT**

The People of the State of Illinois (“the People”), by and through Illinois Attorney General Lisa Madigan, hereby submit this Response in Opposition to Metropolitan Water Reclamation District of Greater Chicago’s (“the District”) Motion for Leave to File and Set a Hearing on the UIC CHEERS Report filed on June 14, 2010 (“District’s Motion”).

1. The District’s Motion seeks additional time to file a final report on the UIC CHEERS epidemiological study (the “Final CHEERS Report”), and scheduling of pre-filed testimony and questions and a hearing on the Final CHEERS Report. The People request the Illinois Pollution Control Board (“Board”) to deny the District’s Motion for the reasons outlined herein.

2. By granting this Motion, the Board will effectively delay any decision on disinfecting for an unknown period of time. Additional delay of this rulemaking would be injurious to the public interest by prolonging the harm to the environment caused by the continuing discharge of un-disinfected sewage effluent into the CAWS. Furthermore, granting

the District's Motion will result in a waste of the resources of the Board, the Illinois Environmental Protection Agency ("IEPA"), and the many other public and private stakeholders that have spent years preparing for, and participating in, this proceeding; there is sufficient evidence on which the Board can decide IEPA's proposed rule. All stakeholders have had ample time to conduct studies and prepare testimony for this docket. The District's request to file additional reports and hold additional hearings only serves to unnecessarily further delay this process.

3. The District's Motion is largely supported by partial quotes from testimony given by the Environmental Groups' technical experts opining on the potential value of the CHEERS study. In the excerpts cited, the Environmental Group's experts state that the CHEERS study is one source of information that can be considered in understanding the risks associated with discharging un-disinfected sewage effluent. However, we agree with the IEPA and the Environmental Groups that, while the information obtained from the CHEERS study may be useful in a future rulemaking setting water quality standards for the CAWS, it is not necessary for the purposes of this rulemaking. This rulemaking proposes a technology-based effluent standard, not in-stream water quality standards. The results in the Final CHEERS Report will not be determinative on whether disinfection should be required for discharges of un-disinfected sewage effluent into the CAWS.

4. On March 18, 2010, the Board directed the Hearing Officer to set a schedule for submitting a CHEERS interim technical report ("Interim Technical Report"), pre-filed testimony, and pre-filed questions, and to set a hearing date on the Interim Technical Report; the Board did not direct the Hearing Officer to set a schedule related to the Final CHEERS Report. By not

including a schedule for the Final CHEERS Report, the Board signaled, at the very least, its reluctance to prolong Subdocket B. Again, there is already sufficient evidence in the record garnered in voluminous filings, hearings, and expert testimony for determining whether disinfection is appropriate. We encourage the Board to close this Subdocket B after completion of the hearings on the Interim Technical Report and move forward expeditiously toward the long overdue disinfection of sewage effluent discharged into the CAWS.

5. If the Board is inclined to allow the District to file the Final CHEERS Report for consideration in this Subdocket B, we request that the Board set a date for the District's submittal of the Final CHEERS Report as a public comment, and as such, hold no further hearings and allow no further testimony.

6. Lastly, if the Board decides to grant the District's Motion as presented, we urge the Board to set a schedule that closes this Subdocket B by the end of 2010.

### **CONCLUSION**

All issues related to recreation in this rulemaking proceeding are ripe for decision and there is no good reason to delay disinfection to protect public health. There must be an end to this rulemaking and, if given more time to complete studies, or to file additional testimony and other reports, the District's continued requests to file additional information will cause this rulemaking to drag on with no end in sight; this scenario is contrary to the purpose of the triennial review required in the Clean Water Act which is the catalyst for this rulemaking, and

we urge the Board to deny the District's Motion and to close Subdocket B after the hearings on the Interim Technical Report are complete and post-hearing briefs are submitted.

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By:



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DATE: June 29, 2010

**CERTIFICATE OF SERVICE**

I, ELIZABETH WALLACE, do certify that I filed electronically with the Office of the Clerk of the Illinois Pollution Control Board the foregoing Notice of Filing and Entries of Appearance and caused them to be served this 29th day of June, 2010, upon the persons listed on the attached Service List by depositing true and correct copies of same in an envelope, first class postage prepaid, with the United States Postal Service at 69 West Washington Street, Chicago, Illinois, unless otherwise noted on the Service List.

  
ELIZABETH WALLACE