

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
Water Quality Standards and)
Effluent Limitations for the) R2008-009
Chicago Area Waterway System) Subdocket C
And Lower Des Plaines River:) (Rulemaking – Water)
Proposed Amendments to 35 ILL.)
Adm. Code Parts 301, 302, 303 and 304)

Pre-Filed Testimony of John Kindra

My name is John Kindra. I am the owner of Kindra Lake Towing, a family company providing barge transportation and barge towing services on the Calumet River in South Chicago, on Lake Michigan to the docks and steel mills in northwest Indiana and on the Cal Sag and Chicago Sanitary and Ship Canal. My testimony will focus on (1) the importance of the Chicago Area Waterways (CAWS) to my business, (2) how the use designation issues can greatly impact waterborne commerce and therefore my business, (3) how certain efforts to stop invasive species can have negative impacts on my business and the region and (4) the conflict between government agencies can harm my business.

1. The Importance of CAWS to my business

Everyday we **receive** barges that use the CAWS to get to our facility. These barges come from Louisiana, Texas, Ohio, Pennsylvania as well as many other states. The barges bring dry cargoes such as salt, raw materials for the steel mills, components for the expansion project at the BP refinery in Whiting, IN, cement and coal. We **ship** barges with products such as finished steel products, by-products from steel making such as slag, petroleum coke and grain. Liquid carrying tank barges regularly move products into and out of the BP refinery. Products of hot, liquid asphalt, gasoline additive ethanol and vegetable oils move by barge in and out of South Chicago and northwest Indiana. These tank barges are very sophisticated and expensive to build.

My business moves these barges for the barge companies that do not have their own tugs to operate on Lake Michigan. These companies also rely on Kindra Lake Towing to move their barges in and out of the docks on the Calumet River.

All of these barges must pass through the Thomas J. O'Brien Lock on the Calumet River and transit the Cal Sag channel and the Chicago Sanitary and Ship Canal in Lemont to come and go to our facility.

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The barges bringing cargo through O'Brien Lock may unload on the Calumet River or travel on Lake Michigan to Burns Harbor, Gary and Indiana Harbor to deliver and/or pick up cargo. The tonnage through O'Brien Lock in both directions in 2008 totaled to 6.9 million tons. The Ports of Indiana found that 17,655 jobs and \$1.9 billion in economic activity in northwest Indiana was attributable to barge movements through O'Brien Lock. A study by DePaul University in April, 2010 concluded that the conservative and preliminary economic value of the industry is \$4.7 billion.

2. Use Designations and Impacts on Waterborne Commerce

I believe that the Illinois EPA was correct in its conclusion that full recreation "in and on the water" is not attainable for all segments of the CAWS and LDPR. I do not believe that we should allocate our limited resources to "attain" recreational water quality in a commercial waterway used for barge transportation that has vertical concrete walls, steep embankments, active management of flow rates (cubic feet per second that get up to 20,000 cfs in Lemont) to prevent flooding.

We have beautiful beaches along Lake Michigan that provide many recreational opportunities for the public at large. Swimming, sun bathing, and frolicking in the water—all can be enjoyed on Lake Michigan. People want to be swimming and playing on the lakefront—not swimming in the industrial waterway.

The US EPA suggested that barge traffic be subject to "place, time and manner restrictions...." In other words, the barge industry operating on the CAWS would have periods where the boats could not operate and barges could not be moved. These restrictions would result in negative impacts on the timely movement of products such as sand and gravel to the ready mix yards in the City as well as the region as a whole. What is a towboat and crew suppose to do while there is a place and time restriction on the CAWS? There would be no choice but to wait while the cost of the boats, barges and crews keeps on accumulating. This proposal UAA Factor 3 would be taking a low cost, safe and environmentally friendly mode of transportation and increasing its costs, adding air pollution while the boat waited and the engines ran—in short, it would reduce, if not fully eliminate, all of the wonderful benefits derived from waterborne commerce.

3. How Certain Efforts to Stop Invasive Species can have Negative Impacts on my Business and the Region

The migration of the Asian carp towards Lake Michigan is an extremely important issue. As efforts are made to make the water quality in the CAWS meet recreational standards in an industrial and commercial waterway, I believe this increases the attractiveness of the CAWS as a habitat for the Asian carp and other invasive species. I believe the Invasive Species Act outranks and should take priority over the Clean Water Act.

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There is a call for an ecological separation between the CAWS and Lake Michigan. One way to do this is to create zones of several miles that do not foster the habitats for invasive species. To try to attain recreational standards for CAWS works directly against the efforts to stop the migration of the Asian carp.

We need to discuss with the scientists and biologists how we can stop the Asian carp by creating a water quality that will not allow these carp to migrate through the CAWS towards Lake Michigan. I have heard that by adding nitrogen to the water, a zone is created that fish cannot survive. This is good. Oxygen can be added downriver from the designated zones to reinvigorate the water quality.

We believe that discussions to close the Chicago Lock and the O'Brien Lock to control the migration of the Asian carp are all wrong and will not work. What is needed is an effective fish barrier that exists in Romeoville now as well as a program that results in heavy fishing of these carp downriver from the barrier to keep the leading edge of the sustainable population away from the barrier (under development now).

If the locks were closed, my business would be ruined and my survival as a company mortally impaired. My business depends on the barges coming through the O'Brien Lock. It is these barges that we move that provides us with our revenues to hire employees and provide jobs for over 30 people. No barges, no jobs. It is that simple.

4. The conflict between government agencies can harm my business.

I believe that invasive species provide a greater threat to our waters than not obtaining primary contact recreation quality water in the CAWS. In addition, the U S EPA wants greater water quality at the same time IL DNR is fighting the migration of the Asian carp by poisoning the CAWS with Rotenone. There have been two applications of Rotenone wherein approximately 160,000 pounds of fish have been killed. Every time there has been a Rotenone application the CAWS has been shut down for 6 or more days. This is interrupting the flow of barges to me. In addition to the Rotenone applications, there have been fishing activity to hunt for the Asian carp and this activity results in the closure of the CAWS. Again, this interrupts the flow of barges to me.

I believe that the fish barriers in Romeoville on the Sanitary and Ship Canal part of the CAWS is our best defense against the migration of the Asian carp towards Lake Michigan. However, the servicing of the existing barriers I and II-A, and the construction of barrier II-B has resulted in closures of the CAWS. The closure of the CAWS at the fish barriers stops barges from getting to me in South Chicago.

I believe that the issue of improving water quality in the CAWS facing the Pollution Control Board cannot be evaluated without taking into account all of the multiple demands on the CAWS including barge transportation and invasive species control.

Conclusion

Based on these factors, I believe that Illinois EPA's proposed actions to amend water quality standards in the CAWS and the LDPR should not be allowed. My reasons for this conclusion are:

- The decrease in economic standards that would be experienced by my company and the Chicago region as well as the nation as a result in the decrease of barge transportation
- The contradiction among governmental agencies in their strategies for managing water quality and invasive species in the CAWS

Finally, Kindra Lake Towing, LP is a member of the American Waterways Operators (AWO), a national trade association for the tugboat, towboat and barge industry. I know that AWO is going to provide testimony to this Board and I fully support that testimony.