

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 FIRST NOTICE 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: October 11, 2010

By: /s/ Monica T. Rios
One of Its Attorneys

Katherine D. Hodge
Monica T. Rios
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**FIRST NOTICE 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 35 Ill. Admin. Code § 102.604, submits the following FIRST NOTICE COMMENTS ON PROPOSED RECREATIONAL USE DESIGNATION FOR THE LOWER DES PLAINES RIVER:

I. INTRODUCTION

In this rulemaking, ExxonMobil has testified and provided comment on safety and security issues related to the proposed incidental contact designation for the segment of the Lower Des Plaines River upon which ExxonMobil’s Joliet Refinery is located. Hearing Transcript, *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 at 16-51 (Ill.Pol.Control.Bd. Aug 13, 2009) (rulemaking hereafter cited as “R08-09”); Comments on Proposed Recreational Use Designation for the Lower Des Plaines River, R08-09(A) (Ill.Pol.Control.Bd. April 15, 2010); *see also* Prefiled Testimony of Robert S. Elvert, R08-09 (Ill.Pol.Control.Bd. Aug. 4, 2008). On August 5, 2010, the Illinois Pollution Control Board (“Board”) issued its First Notice Opinion and Order (“First Notice

Opinion”) in the above captioned Subdocket A. Board Order, R08-09(A) (Ill.Pol.Control.Bd. Aug. 5, 2010). The First Notice Opinion specifically invited “additional comment and in particular invited[ed] the U.S. Coast Guard to provide insights” on the proposed recreational use designation for the Lower Des Plaines River (“LDPR”). *Id.* at 88.

The following comments briefly reiterate ExxonMobil’s concerns regarding safety and security issues along the LDPR, and provides an update for the Board on recent contact with the U.S. Coast Guard on these issues.

II. SAFETY AND SECURITY ISSUES

The Illinois Environmental Protection Agency’s (“Illinois EPA”) proposed recreational use designation for the Upper Dresden Island Pool of the LDPR is incidental contact. Designating this stretch of the LDPR, where the Joliet Refinery is located, as incidental contact will encourage increased recreational use in this area, where there is constant barge and tugboat traffic up and down and back and forth across the LDPR. The constant barge traffic is threat to recreational users, since there is limited room for recreational users to maneuver safely, especially when there are multiple barges and tugboats in the area.

Further, as ExxonMobil has testified, the Joliet Refinery is required to implement increased security measures because it is a federally protected energy facility and a U.S. Coast Guard governed facility. Since the proposed recreational use designation for the LDPR will encourage more recreational users near the Joliet Refinery, there is an increased security risk for the Refinery.

As noted above, the Board invited additional comment on the proposed recreational use designation, and specifically, the Board asked the U.S. Coast Guard to comment on the issue. ExxonMobil contacted the U.S. Coast Guard, and it is ExxonMobil's understanding that the U.S. Coast Guard does not intend to provide comment on the proposed recreational use designation for the LDPR. Since the U.S. Coast Guard does not intend to submit comments on this issue, ExxonMobil encourages the Board to request additional comments from the U.S. Army Corps of Engineers ("Army Corps"). Although the Army Corps filed comments with the Board, the Army Corps stated that "[w]ith regard to the recreational use of the CAWS and LDPR, USACE defers to the U.S. Coast Guard regarding potential safety issues related to recreational uses of the commercial portions of the waterway." Public Comment 305, R08-09(A) at 1 (Ill.Pol.Control.Bd. July 27, 2010). Since the Army Corps deferred comment on the proposed recreational use designations to the U.S. Coast Guard, and it is ExxonMobil's understanding that the U.S. Coast Guard does not intend to submit any comments on this issue, the Board should ask for additional comment from the Army Corps on this issue, or at minimum, extend the comment period to allow the Army Corps to submit comments, if it so chooses, now that the Board and Army Corps are aware that the U.S. Coast Guard does not intend to submit comments.

As ExxonMobil has previously stated, ExxonMobil also strongly 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, who had several meetings on these important issues, there have been no meetings for LDPR facilities to

discuss their safety and security concerns regarding the proposed recreational use designations for the LDPR.

III. CONCLUSION

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 the proposed recreational use designations.

Respectfully submitted,

EXXONMOBIL OIL CORPORATION,

Dated: October 11, 2010

By: /s/ Monica T. Rios
Monica T. Rios

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

CERTIFICATE OF SERVICE

I, Monica T. Rios, the undersigned, hereby certify that I have served the attached FIRST NOTICE 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 October 11, 2010; and upon:

Ms. Marie E. Tipsord
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by depositing said documents in the United States Mail, postage prepaid, in Springfield,
Illinois on October 11, 2010.

/s/Monica T. Rios

Monica T. Rios