

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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OCT 25 2010

STATE OF 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)
Subdocket C and D

ORIGINAL

NOTICE OF FILING

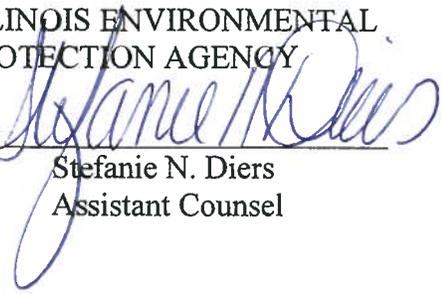
To: John Therriault, Clerk
Marie Tipsord, Hearing Officer
James R. Thompson Center
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board ILLINOIS EPA'S MOTION TO STRIKE THE PRE-FILED TESTIMONY FILED FOR THE NOVEMBER 2010 HEARINGS BY MEMBERS OF THE AMERICAN WATERWAY OPERATORS a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By:


Stefanie N. Diers
Assistant Counsel

Dated: October 22, 2010
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CLERK OF THE
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STATE OF ILLINOIS
Pollution Control Board

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CHICAGO WATERWAY SYSTEM)
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Adm. Code Parts 301, 302, 303 and 304.)

R08-9
(Rulemaking-Water)
Subdocket C and D

**ILLINOIS EPA'S MOTION TO STRIKE THE PRE-FILED TESTIMONY FILED
FOR THE NOVEMBER 2010 HEARINGS BY MEMBERS OF THE AMERICAN
WATERWAY OPERATORS**

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits its Motion to Strike the Pre-filed Testimony of members of the American Waterway Operators. In support of its Motion, Illinois EPA states as follows:

1. On October 12, 2010 various testimony from members of the American Waterway Operators appeared on the Illinois Pollution Control Board website.
2. As of October 22, 2010, the Illinois EPA has not been served with the pre-filed testimony submitted by members of the American Waterway Operators.
3. Pursuant to 102.306(c), pre-filed testimony must be filed with the Clerk and served upon all people who are on the service list. Illinois EPA is on the service list in this matter and was not served by members of the American Waterway Operators. In fact, if the Illinois EPA had not checked the Illinois Pollution Control Board's website, the Agency would not have been aware of this pre-filed testimony and would have been unable to submit pre-filed questions. Failure to serve the pre-filed testimony is prejudicial to all parties in this matter, since the Hearing Officer set a deadline to file pre-filed questions in this matter.

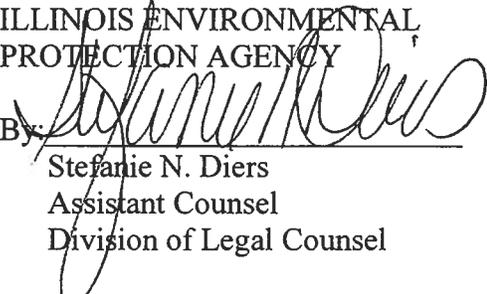
4. Also, much of the pre-filed testimony by members of the American Waterway Operators is not on not on point with the topic set for hearing in November.

5. The Illinois EPA is by no means trying to keep individuals or businesses from testifying in this rulemaking, but when reviewing the member's pre-filed testimony it seems it would be appropriate to strike it as pre-filed testimony and mark the pre-filed testimony as a public comment.

WHEREFORE, the Illinois EPA respectfully requests that the Pre-filed testimony of members of American Waterway Operators be stricken for the November 2010 hearings and Illinois EPA not be required to file pre-filed questions for these witnesses. Illinois EPA further requests the pre-filed testimonies be deemed public comments in this rulemaking.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Stefanie N. Diers
Assistant Counsel
Division of Legal Counsel

DATED: October 22, 2010

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STATE OF ILLINOIS
Pollution Control Board

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STATE OF ILLINOIS
COUNTY OF SANGAMON

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SS

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached ILLINOIS EPA'S
MOTION TO STRIKE THE PRE-FILED TESTIMONY FILED FOR THE NOVEMBER 2010
HEARINGS BY MEMBERS OF THE AMERICAN WATERWAY OPERATORS 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 October 22, 2010, with sufficient
postage affixed.

Meredith Kelley

SUBSCRIBED AND SWORN TO BEFORE ME

This 22 day of October 2010

Brenda Boehner
Notary Public



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STATE OF ILLINOIS
Pollution Control Board

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DEPARTMENT OF ENVIRONMENT
POLLUTION CONTROL BOARD
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