

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 ILL..) (Subdocket B)
ADM. CODE PARTS 301, 302, 303 and 304)

NOTICE OF FILING

To:

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Persons on the attached service list

Please take notice that on the 22th Day of December, 2010, I filed with the Office of the Clerk of the Illinois Pollution Control Board the attached **Environmental Groups' Response to District's Emergency Cross-Motion to Extend Final Comment Date for Limited Purpose**, a copy of which is hereby served upon you.



By: _____
Ann Alexander, Natural Resources Defense Council

Dated: December 22th, 2010

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CERTIFICATE OF SERVICE

I, Ann Alexander, the undersigned attorney, hereby certify that I have served the attached **Environmental Groups' Response to District's Emergency Cross-Motion to Extend Final Comment Date for Limited Purpose** on all parties of record (Service List attached), by depositing said documents in the United States Mail, postage prepaid, from 227 W. Monroe, Chicago, IL 60606, before the hour of 5:00 p.m., on this 22th Day of December, 2010.

A handwritten signature in blue ink that reads "Ann Alexander". The signature is written in a cursive style.

Ann Alexander, Natural Resources Defense Council

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IN THE MATTER OF:)
)
)
WATER QUALITY STANDARDS AND)
EFFLUENT LIMITATIONS FOR THE) R08-09B
CHICAGO AREA WATERWAYS SYSTEM) (Rulemaking- Water)
(CAWS) AND THE LOWER DES PLAINES)
RIVER: PROPOSED AMENDMENTS TO)
35 Ill. Adm. Code Parts 301, 302, 303 and 304)
(Recreational Use Designations))

ENVIRONMENTAL GROUPS' RESPONSE TO DISTRICT'S EMERGENCY CROSS-MOTION TO EXTEND FINAL COMMENT DATE FOR LIMITED PURPOSE

The Environmental Groups¹ submit this response to the District's Emergency Cross-Motion to Extend Final Comment Date for Limited Purpose.

We note, in the first instance, that our motion was made specifically to the Board and not the hearing officer, as it concerns a comment deadline established by the Board and requests for new information by the Board.

The District has indicated in its motion that it does not intend to submit new information in response to the Board's requests on or before the December 31 deadline. *See* Emergency Motion ¶ 4. In view of that representation, the Environmental Groups withdraw their motion, as the Environmental Groups' sole premise for that motion was an assumption that such new information would be provided. *See* Attachment 1 to the Environmental Groups' December 17, 2010 motion. We reserve the right to request that the Board re-evaluate the need for additional

¹ Given the late date, proximity to the holidays, and emergency nature of this motion, the Environmental Groups have not been able to obtain formal sign-off to this response from Friends of the Chicago River. It is our understanding that this response comports with those parties' original intention in the Environmental Groups' December 17, 2010 motion.

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submissions should the District choose, notwithstanding its representation in the Emergency Motion, to submit new information as opposed to a summary of pre-existing information.

The District's motion is framed conditionally on the granting of the Environmental Groups' motion, so our withdrawal of the motion should resolve this matter. However, we note generally that the District has provided no "good cause" for any extension of the December 31, 2010 deadline for submission of comments summarizing pre-existing information. 35 Ill. Admin. Code §§ 101.522. The parties have been amassing that information for nearly three years now, and have known of the December 31 deadline since August. Indeed, it is not entirely clear what exactly the District is asking for, but to the extent we can decipher it, it appears to be the worst of all possible options. It seems as though the District is requesting to extend the comment deadline until January 31 (for unspecified cause) for summaries of pre-existing information; allow full-scale replies to those comments on February 15; and also allow submission on February 15 of new information (*see* ¶ 5) – without any opportunity for reply to the new information.

Therefore, in view of the District's stated decision not to submit new information on or before the comment deadline, and the Environmental Groups' withdrawal of their motion based on that representation, the Board should leave the current deadline in place. A determination regarding the need for reply to new information, if any is submitted, can be made after that time.

Dated: December 22, 2010

Respectfully submitted,

NATURAL RESOURCES DEFENSE COUNCIL
SIERRA CLUB-ILLINOIS CHAPTER

OPENLANDS

SOUTHEAST ENVIRONMENTAL TASK
FORCE

ENVIRONMENTAL LAW & POLICY CENTER



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Authorized to represent the parties listed above for
purposes of this motion