

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

MAY 05 2011

STATE OF ILLINOIS
Pollution Control Board

PC#2

IN THE MATTER OF:)
)
FINANCIAL ASSURANCE) R2010-009
INSTRUMENTS -- RENEWAL AND)
TERMS: AMENDMENTS TO 35 ILL.) (Rulemaking - Land)
ADM. CODE 807 SUBPART F,)
810.104 AND 811 SUBPART G))
)

NOTICE OF FILING

John Therriault, Acting Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

Daniel L. Robertson, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Suite 11-500
Chicago, Illinois 60601

Matthew J. Dunn
Environmental Bureau Chief
Office of the Attorney General
Environmental Bureau North
69 West Washington Street, Suite 1800
Chicago, Illinois 60602

Mitchell Cohen, General Counsel
Illinois Dept. of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the ADDITIONAL COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: Stephanie Flowers

Stephanie Flowers
Assistant Counsel
Division of Legal Counsel

DATE: 5-3-11
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

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ADDITIONAL COMMENTS OF THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA”) and submits the following comments on the Second Notice Proposal by the Illinois Pollution Control Board (“Board”) dated April 21, 2011. Upon review the Illinois EPA found the following substantive errors and requests that the Board remedy the errors in its final adopted rule.

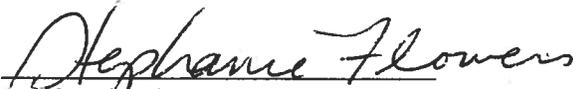
1. On page 28 of the Second Notice Proposal, at Section 807.663(f)(3), the phrase “to cover the increase” should be deleted since a performance bond cannot be combined with other types of financial assurance (see Section 807.641 “Use of Multiple Financial Mechanisms”).
2. On page 53 of the Second Notice Proposal, 807 Appendix A, Illustration E, the signature line was inadvertently deleted and should be restored to be identical to 811.Appendix A Illustrations E at page 125 of the Second Notice Proposal.
3. On page 86 of the Second Notice Proposal, at Section 811.712(f)(3), the same as comment 1, the phrase “to cover the increase” should be deleted since a performance bond cannot be combined with other types of financial assurance (see Section 811.707 “Use of Multiple Financial Mechanisms”).

Furthermore, the Illinois EPA would like to restate the following corrections already submitted but not remedied.

- A. On page 121 of the Second Notice Proposal, 811.Appendix A, Illustration D, paragraph 8, the language “met one or more of the conditions described above” should be used instead of the language “failed to fulfill one or more of the conditions described in this document”.
- B. On page 121 of the Second Notice Proposal, 811.Appendix A, Illustration D, paragraph 12, the last phrase of the sentence should be restored to “date set forth above” to reference the first line of the bond which is “Date bond executed” and to be identical to 807.Appendix A Illustrations C and D.
- C. On page 132 of the Second Notice Proposal, 811.Appendix A, Illustration H, paragraph 8 that begins “In Witness Whereof, . . .”, as in comment B, the last phrase of the sentence should be restored to “date set forth above” to reference the first line of the bond which is “Date bond executed” and to be identical to 807.Appendix A Illustrations C and D.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Stephanie Flowers
Assistant Counsel
Division of Legal Counsel

DATED: 5-3-11
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

CERTIFICATE OF SERVICE

I, STEPHANIE FLOWERS, an attorney, do certify that I filed with the Office of the Clerk of the Illinois Pollution Control Board the ADDITIONAL COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY and will cause the same to be served upon the following persons, by placing a true and correct copy in an envelope addressed to:

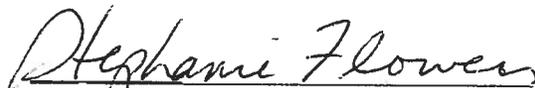
John Therriault, Acting Clerk of the Board
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Chicago, Illinois 60602

Mitchell Cohen, General Counsel
Illinois Dept. of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271

and mailing it by First Class Mail from Springfield, Illinois on May 3, 2011 with sufficient postage affixed.


STEPHANIE FLOWERS

DATED: 5-3-11
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544