

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
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MAY 17 2011
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)

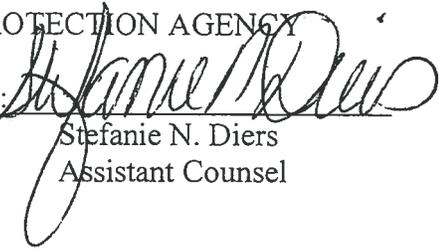
R08-09
(Rulemaking – Water)
Sub-docket A

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 STAY THE CONSIDERING OF A
SECOND NOTICE OPINION AND ORDER IN SUB-DOCKET A AT THE
BOARD'S MAY 19, 2011 MEETING** a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY
By: 
Stefanie N. Diers
Assistant Counsel

Dated: May 16, 2011
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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R08-09 (Sub-Docket A)
(Rulemaking – Water)

**ILLINOIS EPA'S MOTION TO STAY THE CONSIDERING OF A SECOND NOTICE
OPINION AND ORDER IN SUB-DOCKET A AT THE BOARD'S MAY 19, 2011
MEETING**

The Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"), by and through its attorneys, hereby submits its Motion to Stay the Considering of a Second Notice Opinion and Order in Sub-docket A. In support thereof, the Illinois EPA states as follows:

1. On October 26, 2007, the Agency filed a rulemaking proposal to update the designated uses and accompanying water quality standards and effluent limitations for the waters currently designated for Secondary Contact and Indigenous Aquatic Life Use which includes most waters in the Chicago Area Waterway System ("CAWS") and Lower Des Plaines River. The Board docketed this proposal as R08-09.

2. On March 18, 2010, the Board issued an order dividing R08-09 into four separate sub-dockets. Post-Hearing Comments on Sub-Docket A were due on April 15, 2010. On April 15, 2010, the Agency submitted detailed Post-Hearing Comments. Exhibit A to the Agency's Post-Hearing Comments was a four page summary of all documents, exhibits, testimony and public comments in the R08-09 proceeding that pertain to the topic of recreational use designations.

3. The Agency's Post-Hearing comments in R08-09(A) summarized the legal and technical justification for the Agency's recreational use designation proposal as well as providing a summary of the testimony, exhibits and other evidence in R08-09 that are relevant to the Board's decision in Sub-docket A.

4. On August 5, 2010, the Board issued a First Notice Opinion and Order in Sub-Docket A establishing proposed Recreational Use Designations for all segments of the CAWS and Lower Des Plaines River covered by the Agency's rulemaking proposal. The Board's First Notice Proposal was published in Volume 34, Issue 35 of the Illinois Register on August 27, 2010.

5. On August 11, 2010, the Board submitted a letter to the Department of Commerce and Economic Opportunity ("DCEO") requesting that DCEO conduct an economic impact study of Sub-Docket A. In a letter dated September 16, 2010, DCEO notified the Board that no economic impact study would be conducted. The Board held public hearings on DCEO's failure to conduct an economic impact study on October 19 and 20, 2010 and no members of the public testified or commented on DCEO's decision.

6. In an Order dated October 22, 2010, the Hearing Officer in this proceeding established a First Notice Comment deadline of November 30, 2010. Comments have been received prior to this filing deadline from Exxon-Mobil, the Metropolitan Water Reclamation District of Greater Chicago, United States Environmental Protection Agency Region V, the American Waterway Operators Association and members of the general public.

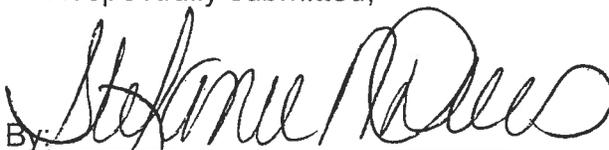
7. Since the closing of the First Notice Comment Period, Illinois EPA received a letter dated May 11th, 2011 from the USEPA. The letter specifically outlined certain segments of the CAWS that should be designated as primary contact instead of incidental as previously proposed by Illinois EPA and adopted by the Board in its First Notice Opinion. USEPA further asks Illinois EPA to act expeditiously to adopt new or revised water quality standards consistent with the findings outlined in the May 11, 2011 letter.

8. Based on the contents of the USEPA letter, Illinois EPA needs to time evaluate USEPA's position to decide what action, if any, may need to be taken with respect to the waters outlined by USEPA for primary contact. Therefore, Illinois EPA asks that the Board to take no action at the May 19, 2011 Board Meeting with respect to issuing a Second Opinion and Order for Sub-docket A.

9. There will be no prejudice to the Board or other parties in this rulemaking if no action is taken at the May 19, 2001 Board Meeting, since the next Board Meeting would be June 2, 2011. By staying a decision in this docket until June 2, 2011, this will allow Illinois EPA and other parties to the rulemaking time to evaluate the May 11, 2011 letter from USEPA.

WHEREFORE, the Illinois EPA respectfully requests the Illinois Pollution Control Board grant its Motion to Stay the Second Notice Opinion and Order scheduled for the May 19, 2011 Board meeting.

Respectfully submitted,

By: 
Stefanie N. Diers
Assistant Counsel
Division of Legal Counsel

Date: May 16, 2011

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Service List for R08-09

Elizabeth Schenkier
Keith Harley
Chicago Legal Clinic, Inc.
211 West Wacker Drive, Suite 750
Chicago, IL 60606

Susan M. Franzetti
Nijman Franzetti LLP
10 South LaSalle St.
Ste. 3600
Chicago, IL 60603

Katherine D. Hodge
Monica Rios
Matthew C. Read
Hodge Dwyer Driver
3150 Roland Ave.
P.O. Box 5776
Springfield, IL 62702

John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Ste 11-500
Chicago, IL 60601

Elizabeth Wallace
Andrew Armstrong
Office of the Attorney General
Environmental Bureau North
69 West Washington Street, Suite 1800
Chicago, IL 60602

Jeffrey C. Fort
Ariel J. Teshler
Sonnenschein Nath & Rosenthal LLP
7800 Sears Tower
233 S. Wacker Drive
Chicago, IL 60606-6404

Ann Alexander
Senior Attorney, Midwest Program
Natural Resources Defense Council
2 Riverside Plaza, Floor 22
Chicago, IL 60606

Fredrick M. Feldman
Ronald M. Hill
Margaret T. Conway
Metropolitan Water Reclamation District
of Greater Chicago
111 East Erie Street
Chicago, IL 60611

Mitchell Cohen, General Counsel
Office of Legal Counsel
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62705-5776

Marie Tipsord, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Ste 11-500
Chicago, IL 60601

Jessica Dexter
Environmental Law & Policy Center
35 E. Wacker Dr., Suite 1600
Chicago, IL 60601

Thomas W. Dimond
Susan Charles
Ice Miller LLP
200 West Madison Street
Suite 3500
Chicago, IL 60606-3417

Service List for R08-09 Continued

Fredric P. Andes
Carolyn S. Hesse
David T. Ballard
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, IL 60606

Kristy A.N. Bulleit
Hunton & Williams LLC
1900 K Street, NW
Washington, DC 20006

Cathy Hudzik
City of Chicago, Mayor's
Office of Intergovernmental Affairs
121 North LaSalle Street
City Hall Room 406
Chicago, Illinois 60602

Lisa Frede
Chemical Industry Council of Illinois
1400 E. Touhy Ave.
Des Plaines, IL 60019

Stacy Meyers-Glen
Openlands
25 E. Washington, Ste. 1650
Chicago, IL 60602

Jack Darin
Cindy Skrukud
Sierra Club, Illinois Chapter
70 East Lake Street, Ste 1500
Chicago, IL 60601

Lyman C. Welch
Alliance for the Great Lakes
17 North State Street, Suite 1390
Chicago, Illinois 60602

Albert Ettinger, Senior Staff Attorney
Environmental Law & Policy Center
53 W. Jackson #1664
Chicago, Illinois 60604

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 STAY THE CONSIDERING OF A SECOND NOTICE OPINION AND ORDER
IN SUB-DOCKET A AT THE BOARD'S MAY 19, 2011 MEETING upon the person to whom
it is directed by placing it in an **overnight** 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

and mailing it First Class Mail from Springfield, Illinois on May 16, 2011, with sufficient
postage affixed to the addresses on the attached Service List.

Suzberly Krao

SUBSCRIBED AND SWORN TO BEFORE ME

This 16th day of May, 2011

Cynthia L. Wolfe
Notary Public



THIS FILING IS SUBMITTED ON RECYCLED PAPER