

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
WATER QUALITY STANDARDS AND) R08-9
EFFLUENT LIMITATIONS FOR THE) (Rulemaking - Water)
CHICAGO AREA WATERWAY SYSTEM)
AND THE LOWER DES PLAINES RIVER:) Subdockets C & D
PROPOSED AMENDMENTS TO 35 Ill.)
Adm. Code Parts 301, 302, 303 and 304)

NOTICE OF FILING

To: ALL COUNSEL OF RECORD
(Service List Attached)

PLEASE TAKE NOTICE that on the 22nd day of September, 2011, I electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, **Joint *Emergency* Motion to Vacate Deadlines in Subdocket C and Set Date for Filing of Joint Status Report.**

Dated: September 22, 2011.

**METROPOLITAN WATER RECLAMATION
DISTRICT OF GREATER CHICAGO**

By: /s/ Fredric P. Andes
One of Its Attorneys

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PROOF OF SERVICE

The undersigned attorney certifies, under penalties of perjury pursuant to 735 ILCS 5/1-109, that I caused a copy of the foregoing, **Notice of Filing** and **Joint *Emergency Motion to Vacate Deadlines in Subdocket C and Set Date for Filing of Joint Status Report***, to be served via First Class Mail, postage prepaid, from One North Wacker Drive, Chicago, Illinois, on the 22nd day of September, 2011, upon the attorneys of record on the attached Service List.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JOINT EMERGENCY MOTION TO VACATE DEADLINES IN SUBDOCKET C AND SET DATE FOR FILING OF JOINT STATUS REPORT

Pursuant to 35 Ill. Adm. Code 101.522, the Metropolitan Water Reclamation District of Greater Chicago (“District”), the Illinois Environmental Protection Agency (“IEPA”), and Environmental Law & Policy Center, Natural Resources Defense Council, Friends of the Chicago River, Openlands, Prairie Rivers Network, Southeast Environmental Task Force, Alliance for the Great Lakes, and Sierra Club-Illinois Chapter (“Environmental Groups”), by their attorneys, jointly move the Hearing Officer to vacate the current deadlines set in Subdocket C, including the October 3, 2011 comments deadline, so the District, IEPA, and the Environmental Groups (the “Movants”) can pursue a possible joint resolution of issues in Subdockets C and D outside of the administrative process. The Movants further request that the Hearing Officer allow the Movants 60 days to pursue such a joint resolution, and set a date at the end of the 60-day period for the Movants to file a joint status report regarding their discussions. In support of their Motion, the Movants state as follows:

1. On August 16, 2011, the Board concluded the scheduled hearings in Subdocket C and set a deadline of October 3, 2011 for parties to file their comments, with response comments due October 17, 2011.

2. Previously, on August 4, 2011, the Board entered an order in the Subdocket D proceedings that found “that delaying the hearings in Subdocket D until the Board goes to first notice in Subdocket C is appropriate.”

3. On September 19, 2011, the Movants and their counsel met to discuss a possible agreement to resolve a substantial number of issues before the Board in Subdockets C and D. As a result of these discussions, the Movants agreed that they should have further discussions to attempt to jointly resolve issues in Subdockets C and D. The Movants anticipate that if they are able to pursue and reach an agreement as a result of their further discussions, it would resolve a substantial portion of the issues presented in Subdockets C and D, thereby significantly reducing the number of issues the Board would need to address in those Subdockets.

4. The Movants request that the Hearing Officer vacate the October 3 and 17, 2011 deadlines for filing comments and responses in Subdocket C, so that the Movants can fully pursue a possible joint resolution of issues in Subdockets C and D over the next 60 days. In order to allow the Movants to fully pursue such a resolution, the Hearing Officer should also set a date at the end of the 60-day period for the Movants to file a joint status report with the Board, which would set forth whether the matter has been resolved, whether new deadlines need to be set (such as deadlines for filing comments in Subdocket C), whether further time is needed to discuss a possible resolution, and any other relevant information or requests.

5. Movants request further that, without regard to what is said in the joint status report, that the hearing officer set dates for the filing of comments and responses in Subdocket C no later than December 19, 2011. Movants, may, move further with regard to the schedule for filing comments if necessary.

6. Pursuant to 35 Ill. Adm. Code § 101.500(d), the Movants make their request on an emergency basis. Section 101.500(d) provides that “**Unless undue delay or material prejudice would result**, neither the Board nor the hearing officer will grant any motion before expiration of the 14 day response period except in deadline driven proceedings where no waiver has been filed.” (emphasis added). If the Hearing Officer waits for 14 days for responses to this Motion, the October 3, 2011 comments deadline in Subdocket C will have passed and the Movants’ request will become moot. Because the quickly-approaching October 3, 2011 deadline will arrive in less than 14 days, the Movants would be materially prejudiced and there would be undue delay if other parties to this case are allowed 14 days to respond to the Movants’ request. Accordingly, the Movants request that an order be entered on an emergency basis and as soon as possible, because it is impracticable to allow a full 14-day response period under 35 Ill. Adm. Code § 101.500(d).

WHEREFORE, the Metropolitan Water Reclamation District of Greater Chicago, the Illinois Environmental Protection Agency, and Environmental Law & Policy Center, Natural Resources Defense Council, Friends of the Chicago River, Openlands, Prairie Rivers Network, Southeast Environmental Task Force, Alliance for the Great Lakes, and Sierra Club-Illinois Chapter, jointly request that the Hearing Officer vacate the current deadlines set in Subdocket C, including the October 3, 2011 comments deadline, so the Movants can pursue a possible joint resolution of issues in Subdockets C and D outside of the administrative process. The Movants further request that the Hearing Officer allow the Movants 60 days to pursue such a joint resolution, and set a date the end of the 60-day period for the Movants to file a joint status report with the Board regarding their discussions.

Dated: September 22, 2011

**METROPOLITAN WATER RECLAMATION
DISTRICT OF GREATER CHICAGO**

By: /s/ Fredric P. Andes
One of Its Attorneys

**ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY**

By: /s/ Deborah J. Williams
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Authorized to represent the parties listed above for
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