

ILLINOIS POLLUTION CONTROL BOARD  
January 8, 2013

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STATE OF ILLINOIS  
Pollution Control Board

ROCK RIVER WATER RECLAMATION )  
DISTRICT, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

PCB 13-11  
(Permit Appeal -Water)



ORIGINAL

**HEARING REPORT**

On November 28, 2012, a hearing in the above-captioned matter was held in the Rockford City Hall, Council Chambers, 425 East State Street, Rockford, Illinois. Hearing Officer Bradley P. Halloran presided.

Attorney Roy Harsch appeared and participated on behalf of the petitioner, Rock River Water Reclamation District (Rock River). Attorneys Christopher J. Grant and Robert Petti appeared and participated on behalf of the respondent, Illinois Environmental Protection Agency (Agency).

**Preliminary Matters**

On November 2, 2012, the respondent filed a motion to supplement record with a draft memorandum of Agency attorney Bill Buscher attached. The motion moves the Board to supplement the record with a draft memorandum prepared by Agency attorney Bill Buscher. The draft consists of 6 pages, marked 867-872. The petitioner has not filed a written response, nor did it note an objection at the hearing. The motion was not ruled on at the hearing but was taken with the case as it is directed to the Board. (Tr. at 265).

On November 20, 2012, the respondent filed a motion *in limine* to exclude irrelevant written testimony and documents not included in the record. The motion states that on November 15, 2012, the petitioner provided respondent with copies of written testimony for James Huff, Gregory Droessler and Dana Carroll along with attached exhibits. Mot. at 2. On November 26, 2012, the petitioner filed its response. On November 28, 2012, at the hearing, the petitioner presented to the hearing officer a corrected copy of its motion marked as Hearing Officer Exhibit A. (Tr. at 6). Oral argument was entertained. (Tr. at 7-24). Complainant did not have a strong objection to the written testimony since the witnesses' were present at the hearing, read their respective written testimony into the record and were cross-examined. Complainant's main objection to the written testimony and attachments was the reference in the documents to 35

Ill. Adm. Code 620 addressing Groundwater Quality. Complainant stated that the Agency did not rely on Part 620 when issuing its denial letter and, therefore, should not be considered by the Board. Over objection, complainant's motion *in limine* was denied and the hearing officer took judicial and administrative notice of 35 Ill. Adm. Code 620.

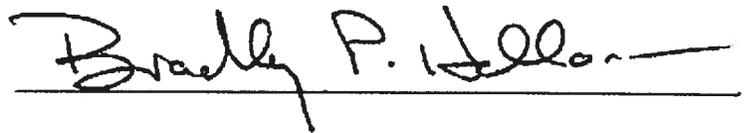
### **Exhibits**

The petitioner and respondent offered exhibits into evidence at the hearing. An exhibit list itemizing the offered exhibits and summarizing their status is attached to this order.

### **Briefing Schedule**

A post-hearing briefing schedule was discussed at a December 6, 2012, telephonic status conference. As agreed, the petitioner's opening brief must be filed on or before January 10, 2013. The respondent's post-hearing brief must be filed on or before January 31, 2013. Petitioner's reply must be filed on or before February 8, 2013. Public Comment must be filed on or before January 15, 2013.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center, Suite 11-500  
100 W. Randolph Street  
Chicago, Illinois 60601  
312.814.8917

PCB 13-11  
November 28, 2012 Hearing

Exhibit List

Exhibit	Description	Status
Hearing Officer Exhibit A	Corrected Response to Respondent's Motion <i>in Limine</i> to Exclude Irrelevant Testimony and Documents	Admitted
Petitioner's Exhibit 1	Written Testimony of James E. Huff and attachments	Admitted
Petitioner's Exhibit 2	Written testimony of Dana L. Carroll and attachments	Admitted
Petitioner's Exhibit 3	Written testimony of Gregory J. Droessler and attachments	Admitted
Petitioner's Exhibit 4	Resume of Larry D. McFall	Admitted
Petitioner's Exhibit 5	Letter regarding Violation Notice, dated November 27, 2012, to Agency from Rock River	Admitted
Petitioner's Exhibit 6	Section 370.930 of the Illinois Recommended Standards for Sewage Works	Admitted
Respondent's Exhibit 1	Denial letter from Agency to Rock River, dated August 1, 2012	Admitted
Respondent's Exhibit 2	Rock River Analysis Data	Admitted
Respondent's Exhibit 3	NDPES Permit letter from the Agency to Rock River, dated May 24, 2011	Admitted
Respondent's Exhibit 4	Bill Buscher memorandum, dated April, 2011	Admitted
Respondent's Exhibit 5	Letter from Jim Huff to Agency, dated June 28, 2011	Admitted
Respondent's Exhibit 6	Clark Dietz letter to the Agency, dated March 3, 2011	Admitted
Respondent's Exhibit 7	Curriculum Vita of William E. Buscher	Admitted
Respondent's Exhibit 8	Rock River Permit Application, dated April 6, 2012	Admitted
Respondent's Exhibit 9	Power Point Presentation, Washington, Indiana Combined Sewer Overflow (CSO) System	Admitted