

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
WATER QUALITY STANDARDS AND)	R08-9 Subdocket C
EFFLUENT LIMITATIONS FOR THE)	(Rulemaking – Water)
CHICAGO AREA WATERWAY SYSTEM)	
AND LOWER DES PLAINES RIVER)	
PROPOSED AMENDMENTS TO 35 ILL.)	
ADM. CODE 301, 302, 303, and 304)	

NOTICE OF FILING

TO:

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

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

Persons included on the attached Service List

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the STEPAN COMPANY'S COMMENTS ON POLLUTION CONTROL BOARD'S PROPOSED RULE, FIRST NOTICE, a copy of which is herewith served upon you.

STEPAN COMPANY

DATE: July 1, 2013

/s/ Thomas W. Dimond
 Thomas W. Dimond

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CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 1st day of July 2013, I have served electronically the attached STEPAN COMPANY'S COMMENTS ON POLLUTION CONTROL BOARD'S PROPOSED RULE, FIRST NOTICE, and NOTICE OF FILING upon the following person:

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

and by U.S. Mail, first class postage prepaid, to the following persons:

Marie Tipsord, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
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The participants listed on the attached
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/s/ Thomas W. Dimond

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
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WATER QUALITY STANDARDS AND)	R08-9 Subdocket C
EFFLUENT LIMITATIONS FOR THE)	(Rulemaking – Water)
CHICAGO AREA WATERWAY SYSTEM)	
AND LOWER DES PLAINES RIVER)	
PROPOSED AMENDMENTS TO 35 ILL.)	
ADM. CODE 301, 302, 303, and 304)	

STEPAN COMPANY'S COMMENTS ON POLLUTION CONTROL BOARD'S PROPOSED RULE, FIRST NOTICE

NOW COMES Stepan Company ("Stepan"), by and through its attorneys, Ice Miller LLP, and submits the following Comments on the Pollution Control Board's ("Board") Proposed Rule, First Notice dated February 21, 2013 (hereafter, "*First Notice*").

Stepan has actively participated in this proceeding since its inception. The changes in use designations proposed by the Illinois Environmental Protection Agency (the "Agency") and those proposed by the Board could significantly impact Stepan. In particular, Stepan's Millsdale plant discharges to the water segment commonly referred to in these proceedings as the Upper Dresden Island Pool ("UDP") and changes to the use designation for that segment could impact Stepan. Consistent with its participation in these proceedings, Stepan submits these comments on the Board's proposed amendments to the regulations.

I. Board's Proposal to Designate the Upper Dresden Island Pool as General Use.

The Board proposed to designate the UDP as a General Use water and consider the appropriate numeric water quality criteria in Subdocket D. *In the matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and Lower Des Plaines River Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304, R08-9(C), Proposed Rule, First Notice, 1 (February 21, 2013) (hereafter "First Notice").* In doing so, the

Board rejected the Agency's proposal to establish a unique use designation that would apply solely to the UDP and to no other water body in Illinois. *First Notice*, 221. In response to a motion by the Illinois Environmental Regulatory Group, the Board clarified that any General Use numeric criteria would not apply to the UDP until after final action in Subdocket D. *In the matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and Lower Des Plaines River Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304*, R08-9(C), Opinion and Order of the Board, 4 (May 16, 2013) (hereafter, the "*Clarification Order*"). That would mean that the existing Secondary Contact standards would continue to apply to the UDP until the Board takes action on Subdocket D. The Board further clarified that its suggestion that the UDP should be classified as General Use was not intended to modify the Board's designation of the UDP as an Incidental Contact Recreation Water in Subdocket A of this proceeding and now codified at 35 Ill. Adm. Code 303.225(h). *Id.*

Stepan disagrees that the proposed designation of the UDP as a General Use water, even limited to aquatic life uses, is appropriate on the record before the Board for the reasons stated in its own post-hearing comments and those of Midwest Generation, ExxonMobil and some other participants. In short, the evidence presented at the hearing overwhelmingly showed that the UDP long has been and remains an impounded, effluent-dominated water that is used for commercial navigation and is impacted by recurrent combined sewer overflow events and that all of these characteristics have resulted in a severely limited habitat. Moreover, no evidence was offered that any of these conditions will or could be reversed in either the long or short-term. Thus, whether or not a presumption applies in favor of the Clean Water Act "fishable" or "swimmable" goals or not, the evidence does not support applying a General Use designation for aquatic life use. Stepan further reserves its right to challenge that designation if finally adopted

by the Board. With that said, Stepan limits its comments on the *First Notice* to the manner in which the proposed regulatory language achieves the Board's apparent intentions and regulatory complications that may result from the Board's proposal.

As proposed by the Board, the second sentence of Section 303.204 makes clear that General Use standards do not apply to the Chicago Area Waterway System ("CAWS") and the Lower Des Plaines River ("LDPR"). *First Notice*, 226. And, of course, the LDPR includes the UDP. 35 Ill. Adm. Code 301.307 (defining the LDPR to extend from the Chicago Sanitary and Ship Canal to the Interstate 55 Bridge, which includes the UDP). The Board would modify the final sentence of Section 303.204 so that it states, "Designated recreational uses an [sic] aquatic life use for each segment of the Chicago Area Waterway System and the Lower Des Plaines River are identified in this Subpart." *First Notice*, 226. That statement would be at best ambiguous because, at proposed by the Board, Part 303, Subpart B makes no express aquatic life use designation for the UDP. Perhaps the Board intended the lack of an express designation on aquatic life use in Subpart B to result in the default classification of the UDP as a General Use water, *see* 35 Ill. Adm. Code 303.201 (general use standards apply to all waters not "otherwise specifically provided"). But, that is contradicted by the second sentence of the Board's proposed Section 303.204, which as noted above indicates General Use standards do not apply to the LDPR and by extension the UDP. It is also contradicted by the designation of the UDP as an Incidental Contact Recreation Water, 35 Ill. Adm. Code 303.225(h), which is not the equivalent of General Use, and by the Board's clarification that it did not intend to change the Incidental Contact Recreation Water designation. *Clarification Order*, 4. Further, the Board's recognition that General Use temperature criteria may need to be adapted for the UDP, *First Notice*, 221, is also inconsistent with designating the UDP as General Use – even for aquatic life alone.

Beyond the apparent contradictions in the *First Notice*, there is the complication that the General Use category has historically been applied as a whole – not as an aquatic life use only designation. Without waiving its position that the UDP cannot support a General Use aquatic life designation, if the Board finally intends for the UDP to be classified as General Use for aquatic life purposes, it will be necessary to somehow indicate that the UDP is not General Use for recreational use purposes. While this could perhaps be accomplished with appropriate language, it will be unavoidably awkward because, historically, the General Use designation has either applied entirely to a water or it has not. Likewise, the numeric standards applicable to General Use water in 35 Ill. Adm. Code 302 Subpart B are not designated as being based on either aquatic life use or recreational use. So, envisioning a water segment as being General Use for aquatic life uses but not General Use for recreational purposes simply does not fit the default nature of the General Use category or its basic structure.

In the *Clarification Order*, the Board invited comment on this issue and suggested that it might be resolved by either delaying the effective date of any rule changes adopted in Subdocket C or by waiting to change the UDP aquatic life use designation until Subdocket D. Either approach seems workable, although the latter seems preferable since it would avoid having some of the language in proposed Section 303.204 appear to be conflicting. In addition, deferring re-designation of the UDP aquatic life use is more consistent with the text of the Clean Water Act. The Clean Water Act envisions that states will contemporaneously change both the water use designations and the corresponding numeric criteria and submit both to EPA for approval at the same time. Section 303(c)(2) of the Clean Water Act specifies that the revised or new standards to be submitted to EPA consist of both the "designated uses of the navigable waters involved and

the water quality criteria for such waters based on such uses." 33 U.S.C. § 1313(c)(2).¹ The United States Environmental Protection Agency ("EPA") has followed the same approach in its rule on state processes for adopting and revising water quality standards. *See* 40 C.F.R. § 131.3(i) (defining "water quality standards" to encompass both designated uses and water quality criteria). Revising only the designated uses is not the norm and is not believed to be consistent with prior Board practice in triennial reviews.

Deferring redesignation would also allow the Board's aquatic life use designation for the UDP to benefit from the additional testimony to be received in Subdocket D. Moreover, there would seem to be no impediment to the Board making whatever aquatic life use designation it believes appropriate for the UDP in a first notice opinion in Subdocket D based on all the evidence considered in both Subdockets C and D. To implement the deferral approach, the Board cannot simply take no action to make an aquatic life use designation for the UDP in the Subdocket C proceeding. That would risk the implicit conclusion that the UDP is designated as General Use or perhaps that the UDP is designated only as an Incidental Contact Recreation Water to which no standards apply to protect aquatic life uses. This latter possibility seems clearly not to be what the Board intends or what the Agency or EPA would find acceptable. So, to implement the deferral approach, the Board may wish to consider an additional Section 303.237 that might use language such as the following:

"Section 303.237 Other Aquatic Life Use Waters that were Formerly Secondary Contact. The following waters were formerly designated as Indigenous Aquatic Life use and no change to that use is intended at this time. Pending further action by the Board, these waters shall continue to comply with the standards in 35 Ill. Adm. Code 302, Subpart D.

- (a) Lower Des Plaines River from the Brandon Road Lock and Dam to the Interstate 55 bridge. "

¹ In that regard, even for the proposed aquatic life use designations for the CAWS ALU A Waters and ALU B Waters, it may be appropriate for the Board to defer changing those uses until after action is taken in Subdocket D.

In Subdocket D, the Board could then revise suggested Section 303.237 to designate a different aquatic life use for the UDP, which combined with the Incidental Contact Recreation Water use designation would fully address the uses of the UDP. The Board could also adopt in Subdocket D the numeric criteria for 35 Ill. Adm. Code 302, Subpart D that it desired to be applicable to the UDP, which could either be the same as for General Use waters or different depending on the Board's assessment of the information submitted in Subdocket D. This approach would avoid the awkwardness and complexity of attempting to designate the UDP as General Use for aquatic life uses only. Alternatively, if in Subdocket D the Board wanted to adhere to its approach of designating the UDP as General Use for aquatic life, then it could eliminate Section 303.237 at that time, with appropriate modifications to other sections to make it clear that the Incidental Contact Recreation Water use applies for recreational uses.

The Agency has expressed concern with delaying or deferring the aquatic life use designation for the UDP based on the requirement that states submit changes to water quality standards to EPA for approval within 30 days of final adoption. *See* Comments of the Illinois EPA on the Illinois Pollution Control Board's Subdocket C First Notice Opinion, R08-9(C), 20 (June 26, 2013). Stepan does not perceive this requirement as an obstacle to either approach. As noted above, both the Clean Water Act and EPA regulations define water quality standards to encompass both designated uses and the numeric water quality criteria. *See* above at 4. If the Board adopts the language proposed by Stepan or a delayed effective date or some other approach that clarifies that no change is being made to the UDP at this time, the Board's action will not result in a change to the use or the numeric criteria applicable to the UDP. Because neither the deferral approach nor the delayed effective date approach changes the numeric criteria, there has been no change in the water quality standards that is required to be submitted

to EPA for review pursuant to 40 C.F.R. § 131.20(c). Such a submission would only be required after changes are adopted in Subdocket D.

To the extent this is still perceived as a problem, it suggests that the preferable approach is not to adopt any changes in Subdocket C and defer all aquatic life use changes until after Subdocket D. As noted above, this is more consistent with the structure of the Clean Water Act and EPA regulations that define water quality standards to encompass both the narrative uses and the numeric criteria. It is also believed to be more consistent with past Board practice which has been to change the two types of regulations contemporaneously.

II. References to categories and specific fish species in definitions of Chicago Area Waterway System Aquatic Life Use A & B Waters.

In the *First Notice*, the Board proposed to use the terms "tolerant" and "moderately tolerant" with regard to fish species and to list certain fish species in the definitions of Chicago Area Waterway System ("CAWS") Aquatic Life Use A Waters ("ALU A Waters") and CAWS Aquatic Life Use B Waters ("ALU B Waters"). For ALU A Waters, the *First Notice* proposed the following language:

"These waters are capable of supporting communities of native fish that are tolerant and moderately tolerant and may include but are not limited to sport fish species such as channel catfish, largemouth bass, bluegill, northern pike, and black crappie, and non-game fish species such as the tadpole madtom, and spotfin shiner, and orangespotted sunfish."

First Notice, 227. For ALU B Waters, the *First Notice* proposed the following language:

"These waters are capable of supporting primarily tolerant fish species, which may include but are not limited to central mudminnow, golden shiner, bluntnose minnow, yellow bullhead and green sunfish."

First Notice, 228. The Board specifically sought comment on the use of this terminology and the specific fish species included in the two definitions. *First Notice*, 175-76.

Consistent with its post-hearing comments, Stepan suggests that it is unnecessary and unwise to use terms such as "tolerant" and "moderately tolerant" with regard to fish species and

to list specific fish species in the definitions of ALU A Waters and ALU B Waters. While we understand the Board's concern with the failure of the aquatic life use designations to have any clear connection with biologic intent, nothing in Section 303 of the Clean Water Act, 33 U.S.C. § 1313, or the regulations implementing it, 40 C.F.R. Part 131, requires states to adopt water quality standards that clearly reflect biologic intent in terms of specific species or categories of species. To date, none of the water quality narrative definitions adopted by Illinois include language reflecting biologic intent or referencing categories of fish species or specific fish species. So, for example, General Use Waters are simply defined as those not categorized elsewhere. 35 Ill. Adm. Code 303.201. Likewise, the definition of Outstanding Resource Waters contains no reference to particular species (of fish or other aquatic life for that matter) or to categories of species to define its biologic intent. The definition contains only a general description that such waters are "of exceptional ecological or recreational significance," 35 Ill. Adm. Code 303.205, without reference to categories of aquatic life or specific species. There is no reason why Illinois should head down this path now on an *ad hoc* basis on the CAWS and LDPR alone.

The evidence cited by the Agency in support of the use of the "tolerant" and "moderately tolerant" regulatory language underscore why this regulatory language is inappropriate at this point. *See* Comments of the Illinois EPA on the Illinois Pollution Control Board's Subdocket C, R08-9(C), First Notice Opinion, 34-35 (June 26, 2013) (citing testimony of Roy Smogor). The testimony of Mr. Smogor made several points abundantly clear. First, terms like "tolerant," "moderately tolerant," and similar descriptions of fish (and presumably other aquatic life) cannot refer to specific species because species that are tolerant of some water quality parameters may be intolerant of others; the assessment of tolerance or intolerance is a matter of interpretation and

there are "various interpretations in the literature." Hearing Transcript, 22 (March 11, 2008). Second, the Agency did not rely on the presence or lack of presence of any particular species to differentiate between different aquatic life uses; it merely intended the use of these terms to indicate, in a relative sense, the level of balance in the aquatic life community that could be supported in different water body segments. Hearing Transcript, 70 (March 10, 2008 Morning); Hearing Transcript, 7, 9-10 (March 11, 2008). Third, the "physical and chemical template" of a water seems more important to the Agency in classifying a water's aquatic life use than the presence or non-presence of particular species. Hearing Transcript, 84 (March 10, 2008 morning). Fourth, Mr. Smogor stated that "these terms . . . were pretty much forced into a narrative . . ." albeit without any quantitative definition or meaning. Hearing Transcript, 65 (March 10, 2008 morning). In essence, all the Agency intended this language to mean was that some waters have greater actual or potential biologic balance than some other waters, albeit that the degree of difference cannot be quantified. One hardly needs to use such vague terms to convey that conclusion.

Another reason for deleting this language from the definitions of ALU A Waters and ALU B Waters is that it has little, if any, practical import. Once revisions to the numeric water quality criteria are adopted in Subdocket D, the Agency and the regulated community will focus on the numeric criteria to set discharge limits or other requirements in NPDES permits. The inclusion of either undefined, nebulous terms or specific fish species in the definitions of ALU A Waters and ALU B Waters with no clear scientific underpinning will be largely, if not entirely, forgotten. It will not be relied upon to set NPDES permit conditions or to serve as the basis for an enforcement action. Moreover, given that we do not even have a clear concept of what it means for a fish to be "tolerant," "intolerant," or something in the middle now, the regulatory

language is likely to have even less meaning to those who will consider revisions to this regulatory language whenever the next review comes before the Board. The choice of specific species to identify in the definitions might have an impact on the selection of temperature criteria in Subdocket D, but if that is to be the case, it seems preferable to wait and decide the issue in Subdocket D and make appropriate revisions to the definitions of ALU A Waters and ALU B Waters at that time. At the present, at least, the Agency is still proposing the same temperature standards for ALU A & B Waters. See Illinois EPA's Motion to Amend Regulatory Proposal Filed in 2007, R08-9(D) (May 24, 2013). Given that Subdocket D issues have yet to be decided, it would seem preferable to decide which, if any, species are listed in Section 303.204 after the applicable numeric criteria are decided in Subdocket D. As noted above, this also seems more consistent with the text of the Clean Water Act, which envisions the use designations and numeric criteria being adopted together.

In the abstract, it might be desirable to classify the aquatic life uses of all Illinois waters according to a comprehensive scheme of biologic intent taking into account not only fish but other aquatic life species. Such an effort should involve a comprehensive review of designations for all Illinois waters and a consideration of all the aquatic life endpoints that are to be protected. However desirable such an approach might be, it goes far beyond what the Agency attempted or proposed in this regulatory proposal. As the Board rightly acknowledges, the record is not fully developed as to what these terms mean. *First Notice*, 175. In that regard, it becomes apparent that adopting any "biologic intent" language in the definitions for ALU A Waters or ALU B Waters, or any other waters in the CAWS and LDPR, is essentially a piecemeal approach with no consistent scientific underpinnings. That is true whether the "biologic intent" language uses vague terms such as "tolerant" or "moderately tolerant" or references specific species. This is

underscored by the Board's observation that the Agency's proposed terminology for "tolerant," "moderately tolerant," or even "intolerant" and "intermediately intolerant" were not defined in terms of lethality, growth or other endpoints or in terms of tolerance to particular parameters, such as dissolved oxygen, temperature or others.

The Board's proposal to include references to specific fish species in the definitions of ALU A Waters and ALU B Waters was apparently an attempt to "fix" the lack of clarity in the "tolerant," "intolerant," and similar descriptions used in Agency's proposal. While making some effort to improve the proposal is understandable, adding specific species does not help. It was difficult to understand how the Board selected the particular fish species that it proposed for inclusion in each of the two definitions of aquatic life uses. For example, the *First Notice* only cites evidence of finding the tadpole madtom in the Dresden Pool (a General Use water well downstream of ALU A & B Waters) and sporadically in the UDP, *First Notice*, 218, and no evidence of finding it in ALU A or B Waters. Thus, the basis for including the tadpole madtom as a listed species for ALU A Waters is unclear. In a similar vein, the orangespotted sunfish was cited as being found in the Chicago River and the South Branch of the Chicago River, *First Notice*, 190 and 192, but so were a number of other fish. It is not clear why the orangespotted sunfish was singled out. Of course, the Board took pains to indicate that the listed species were just examples, but that simply emphasizes that the proposed regulatory language has little practical effect.

In summary, there are several reasons to prefer not to use undefined terms such as "tolerant" or "moderately tolerant" and not to list specific fish species in the definitions of ALU A and B Waters. Such listings are not required by federal law and are not part of a systematic state-wide scientific approach. Further, the listing of specific species has no significant

regulatory impact. Such listings also have the potential to be confusing while perhaps prejudging determinations best left to be developed under Subdocket D. For all these reasons, Stepan suggests that the Board should delete in their entirety the sentences referenced at the outset of this section.

III. **Typographical and apparently inadvertent errors.**

The table of contents for Part 303, as proposed by the Board, includes the following two entries:

303.204	Chicago Area Waterway System and Lower Des Plaines River <u>Outstanding Resource Waters</u>
303.205	<u>List of Outstanding Resource Waters</u>

First Notice, 224 (emphasis added). The headings of Sections 303.204 and 303.205 in the body of the regulations do not include the phrases underlined above. Moreover, the phrase "Outstanding Resource Water" was never used in regard to the CAWS or the LDPR in the course of the hearings. The table of contents for Part 303 in the *First Notice* also omits an entry for "Section 303.206 List of Outstanding Resource Waters" that should be included to match the body of the regulations.

It is believed that the last revision adopted to these sections of Part 303 was in Subdocket A of this proceeding and that adoption did not include the phrases underlined above in the table of contents for Part 303 and did include the entry for Section 303.206. *In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304*, R08-9 (A), Adopted Rule, Final Notice at 17 (Aug. 18, 2011). Other sections of Part 303 were amended again in late 2012, but Sections 303.204 and 303.205 and the table of contents were not amended. *In the Matter of: Triennial Review of Water Quality Standards for Boron, Fluoride and Manganese: Amendments to 35 Ill. Adm. Code 301.106, 302.Subparts B, C, E, F and 303.312*, R11-18, Adopted Rule, Final Opinion and Order at 58-60 (Nov. 15, 2012). We note that

the unofficial version of Part 303 available on the Board's website (*see* <http://www.ipcb.state.il.us/SLR/PCBAndIEPAEnvironmentalRegulations-Title35.asp> last visited June 27, 2013) contains the underlined phrases shown above in the table of Part 303 sections and also omits the table entry for Section 303.206. It appears likely that somewhere in the editing process for the table of contents, 303.205 was deleted in front of the phrase "Outstanding Resource Water," 303.205 was substituted for 303.206 in front of the phrase "List of Outstanding Resource Waters," and then these errors were carried over into the *First Notice*. Because this is inconsistent with the Adopted Rule in Subdocket A, *see* above, and with testimony during the Subdocket C hearings, the phrases shown as underlined above should be deleted from the table of contents entries for Sections 303.204 and 303.205 and the entry for Section 303.206 should be restored.

There appear to be two minor typographical errors in the Board's proposed Section 303.204. In the last sentence of that section, the word "an" appears that it should be "and." *First Notice*, 226. Also, the phrase "aquatic life use" in that sentence appears that it should be made plural since more than one aquatic life use can be designated. *Id.*

Section 303.230(j) refers to the "Lake Calumet Connecting Channel" as one of the waters covered by the ALU A Waters designation. *First Notice*, 227. The term "Lake Calumet Connecting Channel" is neither separately defined in Part 301 nor used in the definition of the Calumet River System at 35 Ill. Adm. Code 301.245. The Board may wish to either define Lake Calumet Connecting Channel in the regulations or at least include that term as a segment within the definition of the Calumet River System at 35 Ill. Adm. Code 301.245.

In a similar vein, Section 303.235(b) refers to the "Brandon Pool" as one of the waters covered by the ALU B Waters designation. *First Notice*, 228. While we understand that the

term "Brandon Pool" was frequently used in the hearings, the term "Brandon Pool" is neither separately defined in Part 301 nor used in the definition of the Lower Des Plaines River at 35 Ill. Adm. Code 301.307. The Board may wish to either define Brandon Pool in the regulations or at least include that term as a segment within the definition of the Lower Des Plaines River at 35 Ill. Adm. Code 301.307. Alternatively, the Board could substitute for "Brandon Pool" in Section 303.235(b) the language used in Section 303.227(b)(2) that refers to the Brandon Pool, albeit not by that name (i.e., "The Lower Des Plaines River from its confluence with the Chicago Sanitary and Ship Canal to the Brandon Road Lock and Dam.").

CONCLUSION

Stepan appreciates the efforts of the Board and its staff to review the proposals and extensive record presented in Subdocket C and the opportunity to review and comment on the Board's *First Notice*. Stepan disagrees that the Upper Dresden Island Pool should be designated as a General Use water and reserves the right to challenge that designation if finally adopted by the Board. To the extent the Board proceeds with its *First Notice* proposal, Stepan requests that the Board consider the comments herein.

STEPAN COMPANY

Date: July 1, 2013

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