

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
WATER QUALITY STANDARDS AND)	
EFFLUENT LIMITATIONS FOR THE)	
CHICAGO AREA WATERWAY SYSTEM)	R08-9(D)
AND THE LOWER DES PLAINES RIVER:)	(Rulemaking-Water)
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 St., Suite 11-500
 Chicago, IL 60601

Marie Tipsord, Hearing Officer
 Illinois Pollution Control Board
 James R. Thompson Center
 100 W. Randolph St., Suite 11-500
 Chicago, IL 60601-3218

Stefanie N. Diers, Assistant Counsel
 Illinois Environmental Protection Agency
 1021 N. Grand Ave. East
 P.O. Box 19276
 Springfield, IL 62794

Persons included on the attached
SERVICE LIST

Please take notice that on December 9, 2013, we filed electronically with the Office of the Clerk of the Illinois Pollution Control Board the attached **Pre-Filed Questions of Lial Tischler**, a copy of which is served upon you.

CITGO PETROLEUM CORPORATION, and
 PDV MIDWEST, LLC, Petitioners

By:  _____

Jeffrey C. Fort
 Irina Dashevsky
 Dentons US LLP
 233 S. Wacker Drive
 Suite 7800
 Chicago, IL 60606-6404

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PRE-FILED QUESTIONS OF LIAL TISCHLER

These questions are being submitted on behalf of Citgo Petroleum Corporation and PDV Midwest Refining, LLC, (hereafter "the Lemont Refinery") with respect to the pre-filed testimony of Lial Tischler, submitted on behalf of ExxonMobil Oil Corporation on November 22, 2013. These questions focus on three topics covered by the submitted testimony:

- A. The extent to which variances from water quality standards that are granted by the Board are approvable under the Clean Water Act and USEPA regulations;
 - B. The sources of chlorides and mercury into the Chicago Sanitary and Ship Canal and other bodies of water leading to the Upper Dresden Island Pool ("UDIP");
 - C. The uses of Best Management Practices and the context leading to a TMDL process.
1. On page 17 of the pre-filed testimony you state: "USEPA has essentially vacated the existing Illinois variance rule." With respect to that statement:
 - a. Do you have a basis for this statement other than as a comment on the action taken by USEPA with respect to the Citgo variance, which you site on page 11, footnote 15?

- b. Do you know if USEPA, in that action, made any references to the "uses" of the Chicago Sanitary and Ship Canal or to any of the evidence developed before the Board in Docket C?
- c. Would it be more accurate for your testimony to have said "USEPA has made its approval of Board-granted variances more difficult"?

2. For a body of water that has upstream sources of pollution, whether from non-point or point sources, which cause a water quality standard to be violated, and for a discharger who uses that water in its processes before discharging pursuant to an NPDES permit, do you recommend that the Board approve any one or more of the following as an alternative to the existing rule, which provides that there is no mixing zone in the event of an exceedance of a water quality standard:

- a. Use of a BMP plan with respect to the pollutant of concern as a condition in the NPDES permit, until a TMDL is adopted, and allowing a mixing zone for that pollutant based on that BMP plan?
- b. Would you recommend the use of BMPs for chlorides? For mercury? Other pollutants?
- c. Conditions imposed through variance procedures, if those conditions and the variance procedures are part of the state water quality standards?
- d. Why could not the variance procedures be generic, and merely cross referenced from the water quality standards?
- e. Others?

3. On page 24, you indicated that BMPs for mercury control has been used by some states to address point source discharges. Can you expand on the type of BMP activities that one might include in a BMP for mercury?

4. On page 23, you cite in the footnotes several EPA reports and the testimony of Marcia Willhite with respect to air deposition of mercury and its effect on U.S. watersheds and fish tissue levels of mercury.

- a. Is this evidence applicable to the Chicago Sanitary and Ship Canal and other bodies of water which are tributary to the UDIP?
 - b. Do you intend to introduce those reports or documents into evidence in this proceeding as an exhibit?
5. On page 13, you indicated that the proposed copper water quality standard may currently be exceeded in the UDIP. Did you mean mercury instead of copper? If not, can you explain the basis for the inclusion of copper and the basis for the exclusion of mercury?
6. On page 24, you ask the Board to include a "multi-discharger/waterbody variance." Do you have any recommendations for processes or language for variances from state water quality standards that could meet the proposed USEPA policy, which you attach as Exhibit C to your testimony?

Dated: December 9, 2013

Respectfully submitted,

CITGO PETROLEUM CORPORATION, and
PDV MIDWEST, LLC

By: _____



Jeffrey C. Fort
Irina Dashevsky
Dentons US LLP
233 S. Wacker Drive
Suite 7800
Chicago, IL 60606-6404

CERTIFICATE OF SERVICE

I, the undersigned, certify that on December 9, 2013, I served electronically the attached

Pre-Filed Testimony Questions of Lial Tischler, upon the following:

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

Stefanie N. Diers, Assistant Counsel
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

The participants listed on the attached
SERVICE LIST



A handwritten signature in black ink, appearing to be 'JL', is written above a horizontal line.

SERVICE LIST

Frederick M. Feldman, Esq.
Louis Kollias
Margaret T. Conway
Ronald M. Hill
Metropolitan Water Reclamation District
100 East Erie Street
Chicago, IL 60611

Roy M. Harsch
Drinker Biddle & Reath
191 N. Wacker Drive, Suite 3700
Chicago, IL 60606-1698

Claire Manning
Brown Hay & Stephens LLP
700 First Mercantile Bank Blvd.
205 S. Fifth St., P.O. Box 2459
Springfield, IL 62705-2459

Fredric Andes
Erika Powers
Barnes & Thornburg
1 N. Wacker Dr., Suite 4400
Chicago, IL 60606

James L. Daugherty-District Manager
Thorn Creek Basin Sanitary District
700 West End Avenue
Chicago Heights, IL 60411

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

Robert VanGyseghem
City of Geneva
1800 South St.
Geneva, IL 60134-2203

Andrew Armstrong
Matthew J. Dunn-Chief
Susan Hedman
Office of the Attorney General
Environmental Bureau North
69 West Washington Street, Suite 1800
Chicago, IL 60602

Bernard Sawyer
Thomas Grant
Metropolitan Water Reclamation District
6001 W. Pershing Road
Cicero, IL 60650-4112

Lisa Frede
Chemical Industry Council of Illinois
1400 E. Touhy Ave.
Suite 110
Des Plaines, IL 60018

Alec M. Davis
Katherine D. Hodge
Matthew C. Read
N. LaDonna Driver
Hodge Dwyer & Driver
3150 Roland Avenue
P.O. Box 5776
Springfield, IL 62705-5776

John Reichart
American Water Company
727 Craig Road
St. Louis, MO 63141

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

Frederick D. Keady, P.E.-President
Vermillion Coal Company
1979 Johns Drive
Glenview, IL 60025

Cindy Skrukud
Jerry Paulsen
McHenry County Defenders
110 S. Johnson Street, Suite 106
Woodstock, IL 60098

Mark Schultz
Navy Facilities and Engineering Command
201 Decatur Avenue Building 1A
Great Lakes, IL 60088-2801

W.C. Blanton
Husch Blackwell LLP
4801 Main St., Suite 1000
Kansas City, MO 64112

Irwin Polls
Ecological Monitoring and Assessment
3206 Maple Leaf Drive
Glenview, IL 60025

Dr. Thomas J. Murphy
2325 N. Clifton St.
Chicago, IL 60614

James E. Eggen
City of Joliet,
Director of Public Works & Utilities
921 E. Washington St.
Joliet, IL 60431

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

Jack Darin
Sierra Club, Illinois Chapter
70 E. Lake St., Suite 1500
Chicago, IL 60601-7447

Lyman Welch
Alliance for the Great Lakes
17 N. State Street, Suite 390
Chicago, IL 60602

Kay Anderson
American Bottoms RWTF
One American Bottoms Road
Sauget, IL 62201

James Huff-President
Huff & Huff, Inc.
915 Harger Road, Suite 330
Oak Brook, IL 60523

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

Kenneth W. Liss
Andrews Environmental Engineering
3300 Ginger Creek Drive
Springfield, IL 62711

Vicky McKinley
Evanston Environment Board
223 Grey Avenue
Evanston, IL 60202

Albert Ettinger
Environmental Law & Policy Center
53 W. Jackson, Suite 1664
Chicago, IL 60604

Olivia Dorothy
Office of Lt. Governor
Room 414 State House
Springfield, IL 62706

Kristen Laughridge Gale
Susan M. Franzetti
Nijman Franzetti LLP
10 South LaSalle St.
Suite 3600
Chicago, IL 60603

Ann Alexander, Senior Attorney
Natural Resources Defense Council
20 N. Wacker Drive, Suite 1600
Chicago, IL 60606

Bob Carter
Bloomington Normal Water Reclamation
P.O. Box 3307
Bloomington, IL 61711

Jared Policicchio
Chicago Department of Law
30 N. LaSalle Street
Suite 1400
Chicago, IL 60602

James L. Daugherty
Thorn Creek Basin Sanitary District
700 W. End Ave
Chicago Heights, IL 60411