

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

EXXONMOBIL OIL CORPORATION,)
)
) PCB 2016-018
)
) Petitioner,) (Variance -Water)
)
) v.)
)
) ILLINOIS ENVIRONMENTAL PROTECTION)
) AGENCY,)
)
) Respondent.

NOTICE OF FILING

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

Brad Halloran, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board a MOTION TO CONSOLIDATE CASES for the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Stefanie Diers
Stefanie Diers
Assistant Counsel
Division of Legal Counsel

DATED: December 9, 2015

1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

EXXONMOBIL OIL CORPORATION,)	
)	PCB 2016-018
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Petitioner,)	(Variance -Water)
)	
v.)	
)	
ILLINOIS ENVIRONMENTAL PROTECTION)	
AGENCY,)	
)	
Respondent.)	

MOTION TO CONSOLIDATE CASES

NOW COMES Respondent, the Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), by and through its attorney, and pursuant to 35 Ill. Admin. Code §§ 101.406 and 101.500, hereby submits its Motion to Consolidate Cases.

In support thereof, the Illinois EPA states as follows:

1. On July 21, 2015, the Petitioner filed its Variance Petition from the chloride water quality standards recently adopted by the Illinois Pollution Control Board (“Board”) in the R08-09 Rulemaking.
2. During the status conference with the hearing officer on October 22, 2015, it was noted that the Variance Petition is one of multiple petitions for variance from newly-adopted chloride standards for the Chicago Area Waterways System and the Lower Des Plaines River.
3. In the R08-9 Rulemaking, the Board explained that the delayed effective date of the chloride standard “is intended to allow time for the work group to develop a proposal to address chloride and a water body wide variance as well as for others who may be seeking alternatives.” *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(D) at 29 (Ill.Pol.Control.Bd. Jun. 18, 2015).

4. The Agency and the variance petitioners, along with other stakeholders, are currently discussing how long-term compliance with the chloride standards should be addressed, and a Work Group has been formed to develop solutions. Meetings of the Work Group, which includes a subset of members with facilities discharging to the Lower Des Plaines River, have been held, and the work is progressing.

5. It is expected that the compliance issues of all of the chloride variance petitioners will be resolved through the solutions being developed by the Work Group, which will be brought to the Board for adoption within the three-year compliance period. Therefore, the Agency and the petitioners believe that it would be most efficient if all of the chloride variance petition cases are now consolidated before the Board. The parties would then report to the Board on progress in the Work Group process at six-month intervals.

6. Section 101.406 of the Board Procedural Rules, 35 Ill. Adm. Code § 101.406 provides:

Consolidation of Claims

The Board, upon the motion of any party or upon its own motion, may consolidate two or more proceedings for the purpose of hearing or decision or both. The Board will consolidate the proceedings if consolidation is in the interest of convenient, expeditious, and complete determination of claims, and if consolidation would not cause material prejudice to any party. The Board will not consolidate proceedings where the burdens of proof vary.

7. Consolidation of the multiple variances for hearing and decision is in the interest of convenient, expeditious, and complete determination of claims. All variances request relief from the newly-adopted chloride water quality standards for the Chicago Area Waterways System and the Lower Des Plaines River. Petitioners all discharge into waterways that are part

of the same regional watershed. Furthermore, the potential cause of chloride standard exceedances in receiving waters is the same – road salt related to deicing. Moving forward with separate cases would result in duplicative efforts, both by Illinois EPA and petitioners and would require enormous Board resources. Each petitioner's request may be adequately managed by the Board in a single variance case.

8. All parties willingly agree to consolidate their cases. The consolidation will not cause material prejudice to any party.

9. If the Motion to Consolidate is granted, then once the petitions are consolidated, the Board could specify a single date for recommendations to be filed.

10. The Agency has reached out to the Petitioner, which has advised Illinois EPA that it has no objection to the requested consolidation. The Petitioner has also indicated that it is willing to file additional waivers of the statutory decision deadline as needed to accommodate the consolidation.

WHEREFORE, the Illinois EPA respectfully requests that the Illinois Pollution Control Board grant its Motion to Consolidate Cases. The Board should consolidate this case with all other cases regarding petitions for variances from the chloride standards.

Respectfully submitted,

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

Date: December 9, 2015

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

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served the attached the NOTICE OF FILING and MOTION TO CONSOLIDATE CASES for the Illinois Environmental Protection Agency upon the person to whom it is directed, by mailing it by first-class mail from Springfield, Illinois, with sufficient postage affixed, to the following persons:

John Therriault, Assistant Clerk
Brad Halloran, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

Katherine D. Hodge
Matthew C. Read
Hodge Dwyer & Driver
3150 Roland Avenue
P.O. Box 5776
Springfield, Illinois 62705-5776

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Stefanie Diers
Stefanie Diers
Assistant Counsel
Division of Legal Counsel

DATED: December 9, 2015

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