

ILLINOIS POLLUTION CONTROL BOARD
December 17, 2015

VILLAGE OF HOMEWOOD,)	
HOMEWOOD ILLINOIS, VILLAGE OF)	
ORLAND PARK, ORLAND PARK)	
ILLINOIS, VILLAGE OF MIDLOTHIAN,)	
MIDLOTIAN ILLINOIS, VILLAGE OF)	
TINLEY PARK, TINLEY PARK ILLINOIS,	)	PCB 16-14 (Homewood)
EXXONMOBIL OIL CORPORATION,	)	PCB 16-15 (Orland Park)
VILLAGE OF WILMETTE, CITY OF	)	PCB 16-16 (Midlothian)
COUNTRY CLUB HILLS, COUNTRY	)	PCB 16-17 (Tinley Park)
CLUB HILLS ILLINOIS, NORAMCO-	)	PCB 16-18 (ExxonMobil)
CHICAGO, INC., FLINT HILLS	)	PCB 16-20 (Wilmette)
RESOURCES JOLIET, LLC, CITY OF	)	PCB 16-21 (Country Club Hills)
EVANSTON, VILLAGE OF SKOKIE,	)	PCB 16-22 (Noramco-Chicago)
ILLINOIS DEPARTMENT OF	)	PCB 16-23 (Flint Hills Resources)
TRANSPORTATION, METROPOLITAN	)	PCB 16-25 (Evanston)
WATER RECLAMATION DISTRICT OF	)	PCB 16-26 (Skokie)
GREATER CHICAGO, VILLAGE OF	)	PCB 16-27 (IDOT)
RICHTON PARK, VILLAGE OF	)	PCB 16-29 (MWRDGC)
LINCOLNWOOD, and CITY OF OAK	)	PCB 16-30 (Richton Park)
FOREST, OAK FOREST ILLINOIS,	)	PCB 16-31 (Lincolnwood)
	)	PCB 16-33 (Oak Forest)
Petitioner,	)	(Variance - Water)
	)	(Consolidated)
v.)	
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

Between July 20, 2015 and July 22, 2015, the Board received several petitions for variance from the Board's chloride standards adopted in 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) (June 18, 2015). Specifically, the Villages of Homewood (PCB 16-14), Orland Park (PCB 16-15), Midlothian (PCB 16-16), Tinley Park (PCB 16-17), Wilmette (PCB 16-20), Skokie (PCB 16-26), Richton Park (PCB 16-30), and Lincolnwood (PCB 16-31); the Cities of Country Club Hills (PCB 16-21), Evanston (PCB 16-25), and Oak Forest (PCB 16-33); the governmental entities of Metropolitan Water Reclamation District of Greater Chicago (MWRD) (PCB 16-29) and the Illinois Department of Transportation (IDOT) (PCB 16-27); and, finally, industry petitioners ExxonMobil Oil Corporation (PCB 16-18), Normaco-Chicago, Inc. (PCB 16-22) and Flint Hills

Resources Joliet, LLC (PCB 16-23) all seek relief from specific sections of Part 302 of the Board's water pollution standards regarding chloride. 35 Ill. Adm. Code 302. The Board accepted those petitions on August 6, 2015 (PCB 16-14, 16-15, 16-16, 16-17, 16-18, 16-20, 16-21, 16-22, 16-23, 16-25, 16-26, 16-27, 16-29, 16-30, and 16-31) and September 3, 2015 (PCB 16-33).

On December 3, 2015, the Illinois Environmental Protection Agency (IEPA) filed uncontested motions to consolidate many of these cases. To date, the Board received no motion to consolidate in Village of Orland Park v. IEPA, PCB 16-15, Noramco-Chicago, Inc. v. IEPA, PCB 16-22, and Flint Hill Resources Joliet, LLC v. IEPA, PCB 16-23. The petitioners in these three cases also seek relief from the chloride standards. For the reasons below, the Board consolidates all of the chloride variance petitions—both in cases that the petitioners requested consolidation and also in cases that petitioners did not.

Section 101.406 of the Board's procedural rules provides for consolidation:

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. 35 Ill. Adm. Code. 101.406.

Each party's variance petition seeks relief from Part 302 of the Board's water pollution chloride standards on similar grounds. For example, each petitioner argues that it does not currently meet the chloride standards and cannot meet them during the term of the requested variance. *E.g.*, Metropolitan Water Reclamation District of Greater Chicago v. IEPA, PCB 16-29, Pet. at 5; Village of Homewood v. IEPA, PCB 16-14, Pet. at 5; Noramco-Chicago, Inc. v. IEPA, PCB 16-22, Pet. at 1-2. The petitioners intend to meet the chloride standards by July 1, 2018 by using best management practices. However, they argue that requiring immediate compliance would be an arbitrary and unreasonable hardship. *E.g.*, Metropolitan Water Reclamation District of Greater Chicago v. IEPA, PCB 16-29, Pet. at 15-17; Village of Homewood v. IEPA, PCB 16-14, Pet. at 12; IDOT v. IEPA, PCB 16-27, Pet. at 8, 10; Exxonmobil Oil Corp. v. IEPA, PCB 16-18, Pet. at 2.

Where IEPA moved to consolidate, the petitioners agreed to the motions. For convenience and expediency, the Board therefore consolidates these cases for purposes of hearing. The Board also finds that because the petitioners are similarly situated, present similar arguments, and have the same objective, consolidation does not materially prejudice any party. Additionally, the cases all share a decision deadline of April 7, 2016, except ExxonMobil, whose decision deadline is currently June 16, 2016. Finally, the municipalities, IDOT, MWRD, and ExxonMobil all must meet the same burden of proof to receive a variance.

As stated above, the Board may consolidate proceedings on its own motion. 35 Ill. Adm. Code. 101.406. The Village of Orland Park (PCB 16-15), Noramco-Chicago, Inc. (PCB 16-22),

and Flint Hills Resources Joliet, LLC (16-23) did not move to consolidate, but consolidating these cases with the other chloride variance cases would result in greater convenience and expediency of a complete resolution of the petitions for variance. Further, no material prejudice results from consolidation for purposes of hearing. Again, Orland Park, Noramco-Chicago, Inc. and Flint Hills Resources Joliet, LLC all must meet the same burden of proof as the parties that agreed to consolidate.

For these reasons, the Board finds that consolidating the petitions for variance facilitates convenient, expeditious, and complete determination of the claims and grants all the motions to consolidate for purposes of hearing. In addition, the Board, on its own motion, consolidates Village of Orland Park v. IEPA, PCB 16-15, Noramco-Chicago, Inc. v. IEPA, PCB 16-22, and Flint Hill Resources Joliet, LLC v. IEPA, PCB 16-23 with the other variance cases for purposes of hearing. Future filings must reflect the amended caption of this order.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 17, 2015, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board