

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

INEOS JOLIET, LLC,	)	
Petitioner,	)	
v.	)	PCB 16-24
	)	(Time-Limited Water Quality Standard)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY	)	
Respondent.	)	

**NOTICE OF FILING**

TO: Don Brown	Brad Halloran
Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500	100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)	(VIA ELECTRONIC MAIL)

**(SEE PERSONS ON ATTACHED SERVICE LIST)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an **THIRD MOTION TO STAY PROCEEDING** a copy of which is herewith served upon you.

Respectfully submitted,

Dated: December 6, 2021

By: /s/ Michael P. Murphy  
One of Its Attorneys

Michael P. Murphy  
HEPLERBROOM, LLC  
4340 Acer Grove Drive  
Springfield, Illinois 62711  
[Michael.Murphy@heplerbroom.com](mailto:Michael.Murphy@heplerbroom.com)  
(217) 528-3674

**CERTIFICATE OF SERVICE**

I, the undersigned, on oath state the following:

That I have served the attached **THIRD MOTION TO STAY PROCEEDING** via  
electronic mail upon:

Don Brown  
Clerk of the Board  
Illinois Pollution Control Board  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
[Don.Brown@illinois.gov](mailto:Don.Brown@illinois.gov)

Brad Halloran  
Hearing Officer  
Illinois Pollution Control Board  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
[Brad.Halloran@illinois.gov](mailto:Brad.Halloran@illinois.gov)

Sara Terranova  
Stefanie Diers  
IEPA  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  
[sara.terranova@illinois.gov](mailto:sara.terranova@illinois.gov)  
[stefanie.diers@illinois.gov](mailto:stefanie.diers@illinois.gov)

Albert Ettinger  
53 W. Jackson  
Suite 1664  
Chicago, Illinois 60604  
[ettinger.albert@gmail.com](mailto:ettinger.albert@gmail.com)

Stacy Meyers  
Openlands  
35 East Washington Street  
Suite 1650  
Chicago, Illinois 60602

David Pfeifer  
USEPA – WQ16J  
77 W. Jackson  
Chicago, Illinois 60604  
[pfeifer.david@epa.gov](mailto:pfeifer.david@epa.gov)

That my email address is Michael.Murphy@heplerbroom.com

That the number of pages in the email transmission is 7 pages.

That the email transmission took place before 5:00 p.m. on the date of December 6, 2021.

/s/ Michael P. Murphy

One of Its Attorneys

Date: December 6, 2021

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**THIRD MOTION TO STAY PROCEEDING**

Pursuant to 35 Ill. Adm. Code 101.514, INEOS Joliet, LLC (“INEOS” or “Petitioner”), by its attorneys, HEPLERBROOM, LLC, respectfully requests that the Illinois Pollution Control Board (“Board”), by and through the Hearing Officer, enter an order staying this proceeding while INEOS pursues an Alternative Thermal Effluent Limitation (“ATEL”) from the Board. In support of this motion, INEOS states as follows:

**A. Time-Limited Water Quality Standard Proceeding**

1. On July 21, 2015, Petitioner (then Flint Hills Resources Joliet, LLC) filed a Petition for Variance pursuant to Section 35 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 35(a). In the variance petition, Petitioner requested a variance from the deadline for complying with the temperature standards at 35 Ill. Adm. Code 302.408(b), (c), (d), (e), (f), and (i) for its Channahon Facility.

2. On February 24, 2017, the variance petition was automatically converted to a Petition for Time-Limited Water Quality Standard (“TLWQS”) by operation of 415 ILCS 5/38.5(c), 40 C.F.R. § 131.14.

3. On July 26, 2018, Petitioner filed an Amended Petition for TLWQS (“TLWQS Petition”). The TLWQS Petition sought coverage under a multiple discharger TLWQS from the temperature standards at 35 Ill. Adm. Code 302.408(b), (c), (d), (e), (f) and (i) for its Channahon

facility. The TLWQS Petition was supplemented by certain information provided in Midwest Generation, LLC's Amended Petition for TLWQS in PCB 16-19, which provided information that was commonly applicable to dischargers that may be covered by the temperature multi-discharger TLWQS.

4. On July 25, 2019, the Board consolidated this proceeding with the Midwest Generation thermal TLWQS proceeding at PCB 16-19 ("Consolidated TLWQS Proceeding").

5. On November 27, 2019, Petitioner, Midwest Generation, and the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency") filed a joint motion to stay the Consolidated TLWQS Proceeding.

6. In the joint motion, the movants argued that Midwest Generation planned on seeking ATEL relief for its Joliet Stations. If granted, Midwest Generation's TLWQS petition would be mooted by the effect of the ATELS. Additionally, the joint motion stated that INEOS was assessing whether it would continue to pursue this TLWQS proceeding or whether it was feasible to seek ATEL relief.

7. On December 5, 2019, the Board granted the motion to stay proceedings. The Board Order stated that: "The Board has reviewed the joint motion and agrees that it would now be more efficient to use the parties' and the Board's resources to review [Midwest Generation]'s expected petition for alternative thermal effluent limitations than to proceed with IEPA's recommendation on and the Board's consideration of the TLWQS petitions."

8. The Board Order further stated that the stay would last until the Board "reaches a final decision on [Midwest Generations]'s petition for alternative limitations for the Joliet Stations."

9. On December 30, 2019, Midwest Generation filed ATEL petitions for each of the Joliet Stations, which were docketed at PCB 20-38 and PCB 20-39 (consolidated on February 6, 2020).

10. In support of the ATELs requested in the petitions, Midwest Generation filed a Thermal Demonstration report, which accounted for the fact that the Upper Dresden Island Pool (“UDIP”) receives additional thermal loading from three downstream dischargers, including INEOS (then Flint Hills Resources, LLC). The report found that, so long as INEOS continues discharging heat at historical levels, no adverse ecological impact would be created by granting alternative thermal effluent relief to the Joliet Stations. INEOS requested, and Illinois EPA recommended, that the same relief requested by Midwest Generation be granted to downstream dischargers such as INEOS.

11. On July 8, 2021, the Board granted ATEL relief for Midwest Generation’s Joliet Stations but did not extend that relief to the downstream dischargers, including INEOS, as requested by INEOS and suggested by the Illinois EPA.

12. On August 3, 2021, Petitioner, Midwest Generation, and the Illinois EPA filed a second joint motion to stay the Consolidated TLWQS Proceeding. The movants requested a stay of the Consolidated TLWQS Proceeding to allow time for the approved ATELs to be incorporated into Midwest Generation’s respective NPDES permits.

13. The Hearing Officer granted the joint motion on August 17, 2021 and the Consolidated TLWQS Proceeding is stayed until January 1, 2022.

**B. Request for Alternative Thermal Effluent Limitation**

14. On December 2, 2021, Petitioner transmitted early screening information required by 35 Ill. Adm. Code 106.1115 to Illinois EPA. Submittal of early screening information is one

of the requirements in the Board's thermal demonstration regulations at 35 Ill. Adm. Code Part 106, Subpart K.

15. As described in the early screening information, INEOS is requesting an ATEL in the form of a mixing zone allowance, in order to assure continuing compliance with the applicable Upper Dresden Island Pool standards effective in the Lower Des Plaines River.

16. As required by Part 106, Petitioner will discuss the early screening information with Illinois EPA. The required meeting is scheduled for December 10, 2021. After these discussions take place, Petitioner, in conjunction with its consultant, will prepare a Detailed Plan of Study, which will be submitted to Illinois EPA. Thereafter, Petitioner will file a petition for ATEL.

18. Both Petitioner and Illinois EPA believe that it will be more efficient to use the parties' and the Board's resources to review Petitioner's soon-to-be-filed ATEL petition than to proceed with Illinois EPA's recommendation on and the Board's consideration of the TLWQS Petition.

19. By staying this TLWQS proceeding, the Board can conserve resources by simply resolving the ATEL petition. If the ATEL petition is granted and the ATEL relief is incorporated into INEOS' NPDES permit, this would moot Petitioner's TLWQS Petition in its entirety and Petitioner would move to voluntarily dismiss this TLWQS proceeding.

20. Petitioner requests the stay to continue until a final decision on the INEOS ATEL petition is issued by the Board. Depending on the Board's ruling, Petitioner will either file another motion to stay the matter until the ATEL relief is incorporated into the NPDES permit (if relief is granted) or, if relief is denied, may need to pursue the TLWQS or consider other options. The stay of the temperature water quality standard as to INEOS should remain in effect during the stay of these proceedings.

21. Petitioner has consulted with counsel for Illinois EPA, who confirmed that Illinois EPA does not object to this motion.

WHEREFORE, INEOS Joliet, LLC respectfully requests the Illinois Pollution Control Board, by and through the Hearing Officer, to stay proceedings in this matter until a final decision is rendered by the Illinois Pollution Control Board in INEOS Joliet, LLC's upcoming Alternative Thermal Effluent Limitation proceeding., and with the stay of the temperature water quality standard as to INEOS remaining in effect during the stay of these proceedings.

Respectfully submitted,

INEOS JOLIET, LLC

By: /s/ Michael P. Murphy  
One of its attorneys

Michael P. Murphy, #6284342  
HeplerBroom, LLC  
4340 Acer Grove Drive  
Springfield, Illinois 62711  
[Michael.Murphy@heplerbroom.com](mailto:Michael.Murphy@heplerbroom.com)  
(217) 528-3674