

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 **SECOND STATUS REPORT** a copy of which is herewith served upon you.

Respectfully submitted,

Dated: June 17, 2022

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

Michael P. Murphy
HEPLERBROOM, LLC
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SECOND STATUS REPORT

Petitioner, INEOS Joliet, LLC (“INEOS” or “Petitioner”), by its attorneys, HeplerBroom, LLC, submits its First Status Report, as required by the Hearing Officer Order dated December 21, 2021, regarding the status of its pursuit of Alternative Thermal Effluent Limitation (“ATEL”) relief while this thermal Time-Limited Water Quality Standard (“TLWQS”) matter is stayed.

A. Procedural History

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 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 was stayed until January 1, 2022.

14. On December 7, 2021, INEOS filed a Third Motion to Stay Proceedings requesting a stay of 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.

15. On December 21, 2021, a Hearing Officer Order was entered granting the Third Motion to Stay Proceeding. A stay was granted "until the Board reaches a decision on INEOS' ATEL petition or until the Board orders otherwise." In addition, INEOS was "directed to submit a status report every 90 days or until further notice from the date of this order."

B. History of Request for Alternative Thermal Effluent Limitations

16. On December 2, 2021, Petitioner transmitted early screening information required by 35 Ill. Adm. Code 106.1115(a) 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.

17. 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 UDIP standards effective in the Lower Des Plaines River ("LDPR").

18. As required by Subpart K, Petitioner had a meeting with Illinois EPA on December 10, 2021 to discuss the early screening information. 35 Ill. Adm. Code 106.1115(b). The parties noted that INEOS is requesting coverage under the ATELs already approved by the Board for Midwest Generation, LLC ("MG") in PCB 20-38 and PCB 20-39. Thus, all the relevant information has already been thoroughly reviewed and found to be fully supportive of the ATEL sought by INEOS. Consequently, it was agreed that INEOS would not need to conduct any new or additional field studies to support the request for application of the MG ATELs to the INEOS thermal discharge. It was further agreed that INEOS should incorporate by reference the information presented in support of the MG ATEL for the INEOS § 316(a) Demonstration but will provide site-specific thermal information.

19. On January 28, 2022, INEOS submitted its Detailed Study Plan for a § 316(a) Demonstration to Support Application of Alternative Thermal Effluent Limits for the INEOS Joliet LLC Facility (“Detailed Plan of Study”), in accordance with, and containing all information required by, 35 Ill. Adm. Code 106.1120.

20. In a letter dated March 13, 2022, Illinois EPA approved the Detailed Plan of Study as submitted.

21. Per 35 Ill. Adm. Code 106.1120(g), after receiving Illinois EPA’s response to the Detailed Plan of Study, the petitioner must complete the plan prior to filing the petition for alternative thermal effluent limitation with the Board.

22. As explained above, INEOS is essentially applying for coverage under the approved MG ATEs and, therefore, there will be no additional studies performed.

C. Status Report

23. INEOS has prepared a draft Demonstration document, which is nearly ready to be shared with Illinois EPA. INEOS expects to share the draft Demonstration with Illinois EPA for its review and comment within the next 30 days. INEOS expects that the Petition will be ready to file within 90 days after resolution of any Illinois EPA comments on the Demonstration document.

24. INEOS will submit its Third Status Report on or before September 17, 2022.

WHEREFORE, Petitioner, INEOS Joliet, LLC, respectfully submits its Second Status Report.

Respectfully submitted,

INEOS JOLIET, LLC

Dated: June 17, 2022

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

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CERTIFICATE OF SERVICE

I, the undersigned, on oath state the following:

That I have served the attached **SECOND STATUS REPORT** via electronic mail
upon:

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Clerk of the Board
Illinois Pollution Control Board
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That my email address is: Michael.Murphy@heplerbroom.com

That the number of pages in the email transmission is 9 pages.

That the email transmission took place before 5:00 p.m. on the date of June 17, 2022.

/s/ Michael P. Murphy
One of Its Attorneys

Date: June 17, 2022