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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD SEP 05 2002

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
WATER QUALITY TRIENNIAL REVIEW)
AMENDMENTS TO 35 ILL.ADM.COM)
302.208(e)-(g), 302.504(a),)
302.575(d),303.444,309.141(h);)
AND PROPOSED 35 ILL.ADM.CODE)
301.267, 301.313, 301.413,)
304.120 AND 309.157)

R02-11
(Rulemaking-Water)

P.C. # 22

NOTICE OF FILING

TO: SEE ATTACHED SERVICE LIST.

PLEASE TAKE NOTICE that on Thursday, September 5, 2002, we filed the attached COMMENTS OF DR. BRIAN D. ANDERSON OF DEPARTMENT OF NATURAL RESOURCES, with the Clerk of the Pollution Control Board, a copy of which is herewith served upon you.

ILLINOIS DEPARTMENT OF
NATURAL RESOURCES,

By: Stanley Yonkauski, Jr.
Stanley Yonkauski, Jr.

September 5, 2002

Stanley Yonkauski, Jr.
Legal Counsel
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COMMENTS OF THE ILLINOIS DEPARTMENT OF NATURAL RESOURCES

The background information Mr. Moshur provided in his written testimony of July 10, 2002 to the Pollution Control Board was useful in clarifying the current standard. Unfortunately his testimony only reinforces the concerns the Department of Natural Resources expressed in our original statement to the Board. Since the methodology was not cited, it was not clear to me from the testimony presented by the Agency that the national standard had already been weakened by adopting a methodology that does not calculate total cyanide. The fact that Standard Method 4500-I "does not release the more strongly bound forms [of cyanide]" is problematic since temperature and exposure to light, as well as pH, may all cause dissociation of cyanide compounds, and the species of cyanide present in any given effluent may vary considerably. Thus, by adopting a standard that is not based on measuring total cyanide, the margin of safety inherent in the national criteria has already been eroded. It appears that the primary rationale for proposing to again weaken the cyanide standard is actually perceived problems with the analytic method. Mr. Moshur describes a single situation (already addressed by a site-specific rulemaking) wherein he states, "Interferences were present that resulted in false detections of weak acid dissociable cyanide." How does he know this? Was the problem an inability to provide reproducible results? Were other tests for cyanide conducted on the same samples for comparison? What "interferences" does he suspect? Were controlled studies conducted to isolate potential variables? He further states, "These difficulties exist everywhere else in the state as well..." yet he neither provides additional examples or evidence to support his belief that the method lacks sensitivity at lower levels of detection. Either way, this motive for requesting the further weakening of the existing standard should have been made plain to the Board and the public as part of the original rulemaking.

Now let me turn to the issue of cool and cold water species. It was not my purpose as Mr. Moshur presumes to “prove that viable trout populations are normal or expected in Illinois.” My point was to argue that the establishment of some reproducing populations should not be forever precluded from inland waters. I do not consider the yellow perch a “cool water” species, as Mr. Moshur believes I should, because its reported temperature tolerances are very wide. While it occurs primarily in cool water habitats the upper lethal temperature has been experimentally determined to be 93 degrees Fahrenheit (Fishes of Canada, Scott and Crossman, 1979). This and his following comments concerning warm water tolerant relatives of the blackfin shiner and Iowa darter betray a simplistic notion that all species, even genera and families of fishes, can be neatly classified as warm, cool, or cold water. I was arguing that it is reasonable to include cyanide intolerant species (“cool water species”) in establishing warm water criteria because only a few species representing a few taxa were considered in setting the national criteria. As for Illinois’ surviving mussels, I am not arguing to “reject a [proposed] standard because no mussel data are available.” I am arguing that an existing standard, one that may not currently be protective of an important group of animals (many of them federally or state-listed threatened or endangered species), should not be further loosened. I appreciate Mr. Moshur’s willingness to concede that none of the state’s current water quality standards may be protective of mussels. I simply do not understand how this suggests that the cyanide standard should be further weakened.

Finally, I believe the Triennial Review process was intended to be an incentive to both the regulated community and regulators to conduct additional toxicological research to determine the sensitivities of a broader range of species, particularly those endemic to the waters of specific states, and thereby provide increasingly better protection of fish and wildlife resources and the public’s welfare. To use the lack of data as justification for weakening standards seems inconsistent with both the goals of the Clean Water Act and the intentions of its framers.

Illinois Department of Natural Resources

By 
Brian D. Anderson, PhD
Director
Office of Scientific Research & Analysis

September 5, 2002
Illinois Department of Natural Resources
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CERTIFICATE OF SERVICE

I Stanley Yonkauski, Jr., the undersigned, certify that I have served a copy of the attached COMMENTS OF DR. BRIAN D. ANDERSON OF DEPARTMENT OF NATURAL RESOURCES, in the matter of Water Quality Triennial Review Amendments:

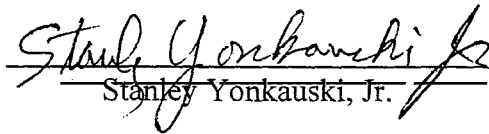
Ms. Dorothy M. Gunn
Clerk of the Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

in person

September 5, 2002; and upon

(SEE ATTACHED SERVICE LIST)

by depositing copies of said documents in the United States mail in Springfield, Illinois
on September 5, 2002.


Stanley Yonkauski, Jr.

R02-11

SERVICE LIST

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