

JAN 13 2003

STATE OF ILLINOIS
Pollution Control Board

Pre-filed Testimony of Cynthia Skrukud, Ph.D.

My name is Cindy Skrukud. I am employed as the Clean Water Advocate for the Illinois Chapter of the Sierra Club. I have reviewed and commented on NPDES permits for the Club since 2000.

I first began to study NPDES permits issued in the Fox and Kishwaukee watersheds in 1996 while employed by the McHenry County Defenders, a county-based environmental organization. I have participated in commenting on a number of draft permits and participated in a number of hearings on draft NPDES permits. This is true although McHenry County Defenders and the Sierra Club comment on only a small fraction of the draft permits that are noticed, and hearings on draft NPDES permits are fairly rare.

The Sierra Club, Illinois Chapter, along with Prairie Rivers Network, is proposing amendments to Part 309 subpart A of the Illinois Administrative Code Title 35 Environmental Protection Act in order to better ensure full public participation in the issuance of NPDES permits in Illinois.

The process of the issuance of NPDES permits necessitates that the Illinois EPA and the discharger hold lengthy discussions about the nature of the proposed discharge in order to develop a draft permit. Consequently, a lot of information has been exchanged between the Agency and the discharger by the time the public receives notice of the proposal to issue a new, modified or reissued permit. In order to allow the public the opportunity to be fully engaged in the decision on whether or not to issue a permit for a given discharge, the public needs an informative public notice of the draft permit and access to the complete administrative record ("permit file" using current Illinois EPA terminology). The public should also be kept informed of any proposed changes in the draft permit that develop prior to the Agency's final decision to issue or deny the permit.

Because the impact of the proposed discharge on the receiving water body is usually the public's utmost concern, our proposed amendments require that more information about the receiving waters be included in the fact sheet. It is vital that the public know the information about the receiving water the Agency is using to base its decision. Because members of the public may have more intimate knowledge of a water body than the Agency does, they may be able to provide information about the water body and its uses, which the Agency lacks. This information could include site specific knowledge of the use of the water body by children (a factor important to the Agency's consideration of disinfection requirements in the permit) or by endangered and threatened species of aquatic and other terrestrial life.

The public needs to be able to fully understand the conditions of the permit. That the public has the opportunity to review and comment on the conditions that will appear in the final permit is critical. The public must be able to know about and comment on what will be discharged, the limits on the discharge, and how those limits are to be monitored. Over the time period for which a NPDES permit is issued (typically 5 years), the monitoring requirements are the only means by which the public (and the Agency) can gauge the impact which the discharge is having on the

receiving water body. A special condition that is not properly monitored under the permit is just a hollow promise.

The public should be able to understand from the administrative record how the conditions in the draft permit were derived and how they will be monitored for compliance. Any significant changes made in the draft permit after it has gone out for public review should result in a new public notice of the modified permit detailing the changes which have been made.

The Illinois Chapter of the Sierra Club believes that the amendments that we have put forward will allow the public to better understand and more fully participate in the review of NPDES permit issuance in the State of Illinois. The proposed amendments, if adopted, will improve the Illinois process, improve the public's ability to participate in the process, improve Illinois permits and improve water quality.