

BEFORE THE ILLINOIS POLLUTION
CONTROL BOARD

ORIGINAL

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DEC - 4 2003

CONSUMERS ILLINOIS WATER COMPANY,

PCB 03 - 124
(Certification)

STATE OF ILLINOIS
Pollution Control Board

Petitioner,

v.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

NOTICE OF FILING

Carol Sudman, Hearing Officer
Illinois Pollution Control Board
600 South Second Street, Suite 402
Springfield, Illinois 62704

Lisa Moreno
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board the Joint Statement of Stipulated Facts of Consumers Illinois Water Company and the Illinois Environmental Protection Agency and the Appearance of Laura M. Earl, copies of which are hereby served upon you.

Date: December 4, 2003

Charles T. Wehland
Laura M. Earl
Jones Day
77 West Wacker Drive
Chicago, Illinois 60601-1692
(312) 782-3939

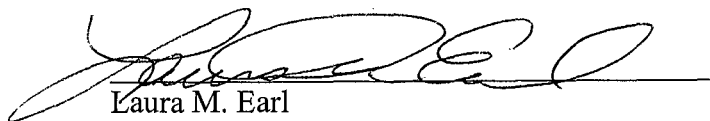
THIS PLEADING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

Laura M. Earl, an attorney, hereby certifies that she served a copy of the attached Joint Statement of Stipulated Facts of Consumers Illinois Water Company and the Illinois Environmental Protection Agency and the Notice of Appearance of Laura M. Earl upon the persons listed below via overnight delivery service on December 4, 2003.

Carol Sudman, Hearing Officer
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) PCB 03 - 124

) (Contest-Tax Certification)

Petitioner,)

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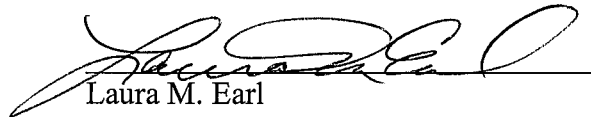
ILLINOIS ENVIRONMENTAL)

PROTECTION AGENCY)

Respondent.)

APPEARANCE

Laura M. Earl of Jones Day hereby enters an appearance in this proceeding on behalf of
Consumers Illinois Water Company.



Laura M. Earl
Jones Day
77 West Wacker Drive
Chicago, Illinois 60601-1692
(312) 782-3939

December 4, 2003

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JOINT STATEMENT OF STIPULATED FACTS

Consumers Illinois Water Company ("CIWC") and the Illinois Environmental Protection Agency ("IEPA") submit the following joint statement of stipulated facts:

The Nitrate Removal Facility

1. CIWC owns and operates a public water supply treatment and distribution system in Danville, Illinois.
2. CIWC's Danville facility has the capacity to treat 14 million gallons of water per day. The basic equipment to process this volume of drinking water was installed in 1991. That equipment remains in service and it is not part of the tax certification request by CIWC.
3. The water that CIWC treats and distributes flows from the North Fork of the Vermilion River (the "River") and is a part of the public water supply.
4. CIWC's public utility service operates as follows: water is drawn from a channel dam on the River, treated, and distributed to the public through direct connections.
5. As a public water supplier, CIWC is subject to all applicable regulations contained in the Environmental Protection Act, the 1974 Safe Drinking Water Act, the 1996 amendments to

the Safe Drinking Water Act, and the National Pollutant Discharge Elimination System (NPDES).

6. The IEPA has determined that the nitrate level in water that CIWC extracts from the River, treats and processes periodically exceeds the federal nitrate primary drinking water standards of 10 mg/L. As a result, IEPA required CIWC to implement measures to reduce nitrate concentrations in the finished water supplied to customers.
7. Human activities are the source of the elevated nitrate concentrations in the water that is extracted from the River. According to an IEPA 2002 Source Water Assessment, two identified sources of the elevated nitrates are application of nitrogen fertilizers to agricultural fields and runoff from septic systems. According to this assessment, the Illinois side of the Lake Vermilion Watershed uses between 20 and 25 tons of agricultural nitrogen per square mile per year. A true and correct copy of the IEPA's 2002 Source Water Assessment for CIWC's water supply is attached as Exhibit 1.
8. It is a violation of the National Primary Drinking Water Regulations for CIWC to supply drinking water with nitrate concentrations over 10 mg/L. 40 C.F.R. § 141.62 (2002). Under the Public Health Service Act, IEPA shall take action against entities that are not in compliance. 42 U.S.C. § 300g-3 (2001).
9. The IEPA has required CIWC to take measures to address elevated nitrate levels in the public water supply. Initially, these requirements were embodied in the compliance commitment agreements attached as Exhibits 2 and 3. Despite implementation of the measures described in the compliance commitment agreements, CIWC continued to provide finished water with nitrates in excess of 10 mg/L on occasion, and IEPA required CIWC to install nitrate removal equipment.

10. In a Consent Order with the IEPA, filed in the Vermilion County Circuit Court on March 20, 2001, CIWC agreed to bring nitrate levels in the public water supply to levels that comply with the primary drinking water standard. A true and correct copy of the Consent Order is attached as Exhibit 4.
11. Under the Consent Order, CIWC agreed to install a nitrate removal facility on or before January 2, 2001.
12. In compliance with the Consent Order, CIWC installed a nitrate removal facility in December 2000, consisting of the following equipment: (1) four ion exchange columns, (2) an ion exchange wet well storage and equalizing basin, and (3) associated piping valves, pumps and electrical, control and process equipment. Since the installation of this equipment, CIWC has complied with the requirement to supply drinking water with nitrate concentrations less than 10 mg/L.
13. CIWC's nitrate removal facility, now operable, effectively reduces the level of nitrates from the public water supply to comply with the federal nitrate primary drinking water standard.
14. The nitrate removal facility does not increase CIWC's pre-existing water treatment capacity of 14 million gallons per day.

The Powdered Activated Carbon Unit

15. In the early 1990's, CIWC became aware of the presence of various agrichemicals such as atrazine, metolachlor and cyanazine in the River. CIWC detected seasonal spikes for herbicide levels in the public water supply during the agricultural growing season.
16. In 1992, CIWC began treating the raw water extracted from the River with carbon to remove these pollutants during the spring and summer months, in order to remain in compliance with federal primary drinking water standards.

17. Agricultural activities in the Lake Vermilion watershed are the source of the herbicides and pesticides in the water that is extracted from the River. Atrazine is a widely used herbicide for the control of broadleaf and grassy weeds in crops such as corn. Metolachlor is also a broadleaf herbicide that is frequently used in conjunction with atrazine. Cyanazine is a pesticide that was detectable in the River throughout the 1990's, until the EPA banned its distribution, sale and use in late 1999.
18. The IEPA has measured atrazine levels in raw water from Lake Vermilion at .33 to 10 parts per billion ("ppb"), and metolachlor at 4.9 ppb. (See Exhibit 1, p.3.) IEPA estimates total herbicide usage in the Lake Vermilion watershed at 750-1000 pounds per square mile. (See Exhibit 1, p.15.)
19. The federal Maximum Contaminant Level ("MCL") for atrazine in drinking water is .003 mg/L. National Primary Drinking Water Regulations, 40 C.F.R. § 141.61(a). Metolachlor and cyanazine are included on the EPA's Drinking Water Contaminant Candidate List, but are not yet subject to National Primary Drinking Water Regulations.
20. In 2000, CIWC upgraded its carbon treatment equipment, adding a bulk powdered activated carbon unit to its water treatment facility.
21. According to the National Primary Drinking Water Regulations, powdered activated carbon treatment is a best available technology to reduce atrazine, and various other synthetic organic contaminant levels in water systems. 40 C.F.R. § 141.61(b).
22. CIWC's powdered activated carbon unit effectively reduces the level of regulated agrichemicals from the public water supply to comply with federal primary drinking water standards, and removes other agrichemicals that are potentially dangerous to humans but are not yet regulated by the EPA.

23. CIWC's powdered activated carbon unit does not increase CIWC's pre-existing water treatment capacity of 14 million gallons per day.

The Residuals Treatment Equipment

24. Liquid waste is created in processing the raw River water for distribution to customers. This waste contains a high percentage of calcium and magnesium solids generated from the lime additive CIWC uses in its water treatment process, as well as powdered activated carbon with absorbed organic pollutants, metal salt coagulant residuals, silt and other inorganic materials.
25. The liquid waste can be returned to the River only in compliance with the terms of the NPDES permit issued to CIWC on April 21, 1999 ("the NPDES permit"). A true and correct copy of the NPDES permit is in the Record at pp. 20-25.
26. Under the terms of the NPDES permit, CIWC must treat the liquid waste in order to remove solids. Only the supernatant clear water that exists after solids have settled can be discharged to the River in compliance with the NPDES permit limits.
27. To remove solids from the liquid waste created in processing the raw River water, CIWC has installed three three-million gallon sludge lagoons and one four-million gallon backwash waste settling basin at its water treatment facility.
28. All three lagoons contain sludge and allow it to settle, separating clear water from the water treatment residue, thereby preventing extracted pollutants from flowing back into the River.
29. The backwash waste settling basin collects materials that have been filtered from the River's water during the treatment process, such as algae, protozoa, bacteria, viruses, and leaves, as well as iron salt residue from CIWC's water clarification process. Materials collected in this basin are also pumped to the sludge lagoons.
30. The residue or sludge that remains after the supernatant water has been skimmed may be applied to agricultural land, according to the terms of CIWC's Water Pollution Control

Permit, issued by the IEPA on February 11, 1999 ("the WPC permit"). A true and correct copy of the WPC permit is in the Record at pp. 15-19.

31. CIWC applies the combined sludge from the lagoons to agricultural fields, in accordance with IEPA guidelines set forth in the WPC permit.
32. As a result of the installation and use of the equipment identified in paragraph 18, CIWC complies with the limitations in the WPC and NPDES permits. Untreated effluent does not comply with the limitations in the WPC and NPDES permits.
33. Liquid waste is also created in maintaining the nitrate removal facility. The liquid waste contains nitrates removed from the water supply in a brine solution.
34. On February 7, 2000, IEPA denied CIWC's request for modification to its NPDES permit to allow CIWC to either pump the liquid waste from its nitrate removal facility into an old settling lagoon or into the existing sludge lagoons. A true and correct copy of the IEPA letter denying CIWC's NPDES permit modification request is attached as Exhibit 5.
35. In denying CIWC's request, IEPA said that discharging the waste from the nitrate removal facility into either the old settling lagoons or into the existing sludge lagoons would violate General Use Water Quality Standards (35 Ill. Admin. Code 304) for total dissolved solids, sulfate, nitrate and chloride.
36. The only remaining alternative addressed by IEPA was for CIWC to collect the nitrate- and brine-laden waste and pump it to the Danville Sanitary District. IEPA stated that a discharge in this manner could be approved through the issuance of a construction permit. (*See Exhibit 5.*)
37. The Danville Sanitary District is unable to take in the waste from the nitrate removal facility at the same rate that CIWC generates the waste. CIWC is therefore unable to pump this

waste directly to the Danville Sanitary District. A true and correct copy of a letter from the Danville Sanitary District to this effect is attached as Exhibit 6.

38. To comply with the IEPA's instruction and the terms of its NPDES permit, CIWC has installed a wet well/storage and equalizing basin for ion exchange backwash.
39. This basin collects the waste from the nitrate removal system. The liquid waste is generated at a variable, occasionally high rate. The basin allows it to be pumped at a constant, slower rate to the Danville Sanitary District.

Respectfully submitted,

Dated: November 20, 2003

CONSUMERS ILLINOIS WATER COMPANY

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CHI-1356399v2

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