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JUN 18 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
REVISIONS TO RADIUM WATER) R 04-21
QUALITY STANDARDS: PROPOSED) (Rulemaking - Water)
NEW 35 ILL. ADM. CODE 302.307)
AND AMENDMENTS TO 35 ILL. ADM.)
CODE 302.207 AND 302.525)

NOTICE

TO: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Amy Antonioli, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

Matthew Dunn, Division Chief
Joel Sternstein, Assistant Attorney
Office of the Attorney General
188 West Randolph, 20th Floor
Chicago, Illinois 60601

Jonathan Furr, General Counsel
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, Illinois 62701

Richard Lanyon
Metropolitan Water Reclamation
District of Greater Chicago
100 East Erie Street
Chicago, Illinois 60611

Abdul Khalique
Metropolitan Water Reclamation
District of Greater Chicago
6001 West Pershing Road
Cicero, Illinois 60804

Roy Harsch
Sasha Engle
Gardner Carton & Douglas
191 North Wacker Dr, Suite 3700
Chicago, Illinois 60606-1698

Jeffrey Cort
Letissa Carve Reid
Sonnenschein Nath & Rosenthal LLP
800 Sears Tower
233 S. Wacker Drive
Chicago, Illinois 60606-6404

Lisa Frede
CICI
2250 E Devon Ave, Suite 239
Des Plaines, Illinois 60018

Claire Manning
Posegate & Denes
111 North Sixth Street
Springfield, Illinois 62701

William Seith
Total Environmental Solutions
631 E Butterfield Rd, Suite 315
Lombard, Illinois 60148

PLEASE TAKE NOTICE that I have filed with the Office of the Pollution Control Board the IEPA'S RESPONSE TO WRIT'S MOTION FOR AN ADDITIONAL MERIT HEARING AND AN APPEARANCE on behalf of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Date: June 16, 2004

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Stefanie N. Diers
Assistant Counsel
Division of Legal Counsel

1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON
RECYCLED PAPER

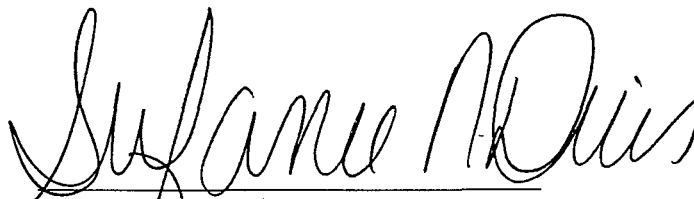
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AND AMENDMENTS TO 35 ILL. ADM.)	
CODE 302.307 AND 305.525)	

APPEARANCE

I hereby file my Appearance in this proceeding, on behalf of the Illinois Environmental Protection Agency.



Stefanie N. Diers
Assistant Counsel
Division of Legal Counsel

DATED: May 21, 2004

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF :)
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REVISIONS TO RADIUM WATER)
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NEW 35 ILL. ADM. CODE 302.307) (Rulemaking-Water)
AND AMENDMENTS TO 35 ILL. ADM.)
CODE 302.207 AND 302.525)

RESPONSE TO WRT'S MOTION FOR AN ADDITIONAL
MERIT HEARING

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits its response to WRT's Motion for an Additional Merit Hearing. In support of its Motion,

Illinois EPA states as follows:

1. On June 2, 2004, WRT filed its Motion for an Additional Merit Hearing with the Illinois Pollution Control Board.
2. On June 4, 2004, the Illinois EPA received WRT's Motion for an Additional Merit Hearing.
3. WRT alleges they have been materially prejudiced, since they did not learn of the rulemaking until May 27, 2004. (WRT's Motion, paragraph 3).
4. It is the position of the Illinois EPA that WRT's Motion for an Additional Merit Hearing should be denied.
5. WRT had every opportunity to participate in the hearings held before the Illinois Pollution Control Board.
6. Two hearings were held in this matter and were open to the public.
7. The first hearing was held on April 1, 2004 in Chicago, Illinois and the second hearing was held on May 6, 2004 in Springfield, Illinois.

8. Notice was provided to the public pursuant to 35 Ill. Adm. Code Section 102.416.

9. Illinois EPA believes a full and complete record has been developed in this matter. The issues raised by WRT were either raised at the previous hearings or go beyond the scope of the rulemaking.

10. WRT's request for an Additional Merit Hearing when they did not participate in the two previous hearings held pursuant to Section 28 of the Act will cause the Board, Illinois EPA and other participants unnecessary expenses in order to participate in yet another hearing.

11. Furthermore, one of the purposes of the hearings held before the Illinois Pollution Control Board is to provide a forum where interested parties and the public can express their thoughts on proposed rulemaking. To allow for another hearing at this time would circumvent this process and provide no finality to proceedings before the Illinois Pollution Control Board and cause further delay in the Board's final decision with respect to the proposed rulemaking.

12. Despite WRT's failure to participate in the two previous hearings, WRT is still afforded an opportunity to participate in the proceedings by submitting comments to the Illinois Pollution Control Board for consideration.

13. In fact, WRT filed written comments with the Illinois Pollution Control Board on June 4, 2004.

14. Denying WRT's motion for an Additional Merit Hearing will promote full participation by parties in scheduled regulatory hearings, the development of a clear and

comprehensive administrative record, and expeditious and economic finality to the proceedings.

15. Furthermore, WRT has failed to show they exercised due diligence in this matter as required under Section 102.412(b). See 35 Ill. Adm. Code Section 102.412(b).

16. WRT admits in their Motion for An Additional Merit Hearing that WRT met with representatives of the Pollution Control Board in the fall of 2003 and with the Illinois EPA and the Illinois Emergency Management Agency at that time and continuing from time to time in the Winter and Spring of 2004. (WRT's Motion, p. 2).

17. As such, WRT should have known where and how to obtain information concerning the proposed rulemaking.

18. Therefore, WRT has not been materially prejudiced in this matter and their request for an Additional Merit Hearing should be denied.

WHEREFORE, the Illinois EPA respectfully requests that WRT's Motion For an Additional Merit Hearing be denied.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By 

Stefanie N. Diers
Assistant Counsel
Division of Legal Counsel

DATED:

Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached IEPA's Response to Wrt's Request for an Additional Merit Hearing and an Appearance upon the person to whom it is directed, by placing it in an envelope addressed to:

TO: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Amy Antonioli, Hearing Officer
Illinois Pollution Control Board
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Metropolitan Water Reclamation
District of Greater Chicago
6001 West Pershing Road
Cicero, Illinois 60804

Roy Harsch
Sasha Engle
Gardner Carton & Douglas
191 North Wacker Dr, Suite 3700
Chicago, Illinois 60606-1698

Jeffrey Cort
Letissa Carve Reid
Sonnenschein Nath & Rosenthal LLP
800 Sears Tower
233 S. Wacker Drive
Chicago, Illinois 60606-6404

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2250 E Devon Ave, Suite 239
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Springfield, Illinois 62701

William Seith
Total Environmental Solutions
631 E Butterfield Rd, Suite 315
Lombard, Illinois 60148

and mailing it by First Class Mail from Springfield, Illinois on June 16, 2004, with sufficient postage affixed.

Cynthia L. Wolfe

SUBSCRIBED AND SWORN TO BEFORE ME

this 16th day of June, 2004

Cynthia L. Wolfe
Notary Public

