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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD OCT 20 2004

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
INTERIM PHOSPHORUS EFFLUENT)
STANDARD, PROPOSED 35 ILL. ADM.)
304.123 (G-K))
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)

R4-26
(Rulemaking - Water)

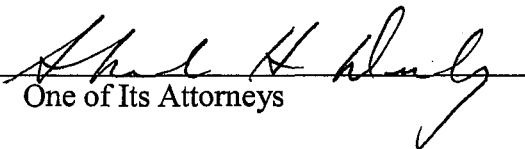
NOTICE OF FILING

TO: See Attached Certificate of Service

PLEASE TAKE NOTICE that on **Wednesday, October 20, 2004**, we filed the attached **Written Testimony of James Daugherty on behalf of the Illinois Association of Wastewater Agencies** with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ASSOCIATION OF WASTEWATER
AGENCIES

BY: 
One of Its Attorneys

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WRITTEN TESTIMONY OF JAMES DAUGHERTY ON BEHALF OF THE
ILLINOIS ASSOCIATION OF WASTEWATER AGENCIES

Background

My name is James Daugherty. I am currently employed by the Thorn Creek Basin Sanitary District as its general manager. The sanitary district operates a wastewater treatment facility in southern Cook and northern Will counties, Illinois, with a design flow of 16 million gallons per day. The facility currently serves a population of 100,000. I have been employed by Thorn Creek Basin Sanitary District since 1973. I have held the position of District Manager since November 1976.

I have received both a bachelors and masters degree in civil engineering from the University of Illinois at Urbana/Champaign. I hold an Illinois Environmental Protection Agency (Agency) Class 1 and Class K operator's license for wastewater treatment and an Illinois Environmental Protection Agency Class A license for potable water. I have been active in many technical organizations, including the Water Environment Federation and the Association of Metropolitan Sewage Agencies.

My testimony is provided on behalf of the Illinois Association of Wastewater Agencies (IAWA). I am a past president of the IAWA and currently serve as chairman of the Technical Committee on the Proposed Interim Phosphorus Limit. IAWA is a professional association representing the major wastewater treatment plants in the State of Illinois. We have about 100 members and affiliate members, which includes approximately 55 districts and municipalities throughout the state. These agencies operate approximately 75 publicly-owned treatment works (POTWs), including almost all of the state's major facilities. In addition to these sanitary districts, water reclamation districts and municipalities, the largest Illinois private wastewater utility that operates 12 plants is also a member. Representatives of these organizations are public officials and include both elected and appointed trustees of districts and appointed officials at municipalities throughout the state. Our constituents are the citizens and taxpayers of Illinois, who are the same constituents as any other state or public agency.

IAWA Goals

Our members are responsible both for the operation of existing wastewater treatment facilities and the construction of new facilities. New facilities are constructed either to meet additional

environmental protection needs or to provide more capacity for expanding service areas. IAWA members are committed to both ensuring that the aquatic environment is maintained in a healthy state and to providing wastewater treatment services at a reasonable cost to our constituents. IAWA is proud of its long commitment to the application of sound science to the development of water quality and effluent standards. When standards are developed from sound science, IAWA members have a high level of confidence that those standards will be in place for many years. This allows us to do our job, which is to provide needed wastewater treatment at a minimum long-term cost to our constituents. In contrast, when standards are developed without the use of sound science, IAWA members are forced to use interim solutions to treatment needs to avoid building facilities that might not be needed once more appropriate limits are developed.

I would like to thank the Board for this opportunity to participate in an important rulemaking.

Nutrient Limits

IAWA supports the Agency's work plan, as approved by USEPA, to develop nutrient water quality standards for Illinois. That plan calls for the application of sound science to develop nutrient limits by the year 2008. The development of such limits is consistent with IAWA's long standing support of science-based water quality standards. IAWA has and will continue to participate in the Agency's Illinois Nutrient Work Group.

Proposed Interim Phosphorus Limit

IAWA is opposed to the proposed interim effluent phosphorus limits. We urge the Board to reject the Agency's proposal in its entirety. As proponent of the proposal, the Agency is required to provide an environmental, technical, and economic justification for the proposed rule. See 35 Il. Adm. Code 102.202. The Agency has not provided an adequate environmental, technical or economic justification for a new statewide effluent limitation. With respect to the environmental justification for the proposed rule, the Agency has repeatedly stated that it cannot determine what, if any, would be the environmental benefit of the proposed effluent limitation, or whether there will be any benefit on a state-wide basis to receiving streams where dischargers will be subject to the proposed limitations.

The Agency has stated that the proposed interim phosphorus limits are based on the application of certain technology in the wastewater treatment process for the reduction in phosphorus. For streams where phosphorus can be shown to be impairing a recognized stream use, there are already regulations which would allow the Agency to give those dischargers effluent limitations that will address such impairments. For receiving streams where it cannot be determined that there will be a benefit from reductions in phosphorus levels, the proposed interim limit would result in the installation and operation of treatment technology with no known benefit.

With respect to the technical justification and economic cost of the proposed rule, the Agency has stated that it expects facilities to use chemical phosphorus removal processes to meet an interim limit. The Agency readily acknowledges that the application of this technology will increase the cost of wastewater treatment, but it has failed to provide a sound and accurate estimate of the cost and omits important components of the cost. The most significant omission from the Agency's cost figures is the cost of handling and disposal of additional

sludge (August 30, 2004 Tr. 75-8). The Agency has estimated sludge volumes would increase by 15 to 30% (August 30, 2004 Tr. 24-11) or 20 to 40% (May 14, 2004 Statement of Reasons, page 14). For a proposed limitation where the Agency is on record as admitting that it does not know what, if any, benefit to the receiving streams will be realized if the standard is adopted (August 30, 2004 Tr. 47-24, 48-3 and 65-11 to 65-18), the prospective costs are unsupportable.

IAWA believes there is no need for the proposed interim phosphorus limitation. Given that nutrient limits based on sound science are "on the way" and that the Agency currently has means to deal with streams that have known nutrient problems, adoption of an interim technology-based phosphorus limit is not wise public policy. The Agency has at times represented this interim limit as the first step in a nutrient control program. The Agency has also admitted that at this point in time it does not understand the role of elevated levels of nutrients in the wide range of stream conditions found in Illinois. The Agency is saying it does not know what the nutrient control program in Illinois will look like when it has completed the scientific studies (August 30, 2004 Tr. 44-22 to 45-15). We question how anyone can know that the proposed interim limit is the first step in that process when the scientific studies have not been completed on the appropriate nutrient limitations for this state.

The Agency has also argued that there would be savings to the public when POTWs install phosphorus removal technology as they undergo expansion or new construction. The Agency has stated its expectation that treatment facilities will install chemical phosphorus removal in lieu of biological phosphorus removal given the fact that this is an interim limit, as biological phosphorus removal has a much higher capital cost. POTW managers are unlikely to spend significant capital dollars on a process their facilities may not need when real phosphorus water quality standards are adopted. POTW managers are more likely to install chemical phosphorus removal which has a lower capital cost, but higher operating costs. The facilities needed for chemical phosphorus removal are not in-line facilities. They are not facilities where an additional unit needs to be inserted within the treatment train of unit processes. Chemical removal facilities are sideline facilities. They include chemical storage and pumping facilities that inject chemicals into existing treatment units. For this reason, they are fairly easy to add to the treatment facility at any time, not just during construction or expansion. IAWA does not believe there will be long-term cost savings by requiring facilities to add chemical phosphorus removal as they currently undergo expansion or construction, except possibly for the increase in the solids production due to chemical removal. Again, we would point out that the increase in solids production (between 15 and 40% as mentioned by the Agency) would have significant capital and operating cost implications to any facility. These costs have not been documented by the Agency.

Specific Technical Issues

Written testimony has been provided by the Metropolitan Water Reclamation District of Greater Chicago on September 28, 2004. IAWA has reviewed that testimony. It raised many important specific technical issues. IAWA urges the Board to give them careful consideration to the issues they raise.

Conclusion

IAWA requests the Board to reject the Agency's proposed interim phosphorus effluent limits. The Agency has failed to demonstrate that the proposed limits are justified from an environmental, technical or economic basis. For streams where phosphorus can be shown to be impairing a recognized stream use, there are already regulations which would allow the Agency to give those dischargers effluent limitations that will address such impairments

Thank you for your consideration to our comments.

CH02/22346129.1

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **Written Testimony of James Daugherty on behalf of the Illinois Association of Wastewater Agencies** were filed by hand delivery with the Clerk of the Illinois Pollution Control Board and served upon the parties to whom said Notice is directed by first class mail, postage prepaid, by depositing in the U.S. Mail at 191 North Wacker Drive, Chicago, Illinois on **Wednesday, October 20, 2004.**

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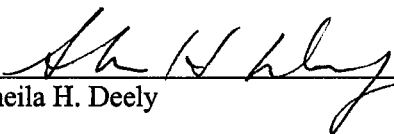
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