

ORIGINAL

ILLINOIS POLLUTION CONTROL BOARD

November 23, 2004

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STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
 )  
 PROPOSED AMENDMENTS TO ) R04-25  
 DISSOLVED OXYGEN STANDARD 35 ILL.) (Rulemaking - Water)  
 ADM. CODE 302.206 )

**NOTICE OF  
STATUS CONFERENCE CALL**

DATE, TIME, DIAL-IN INFORMATION:

STATUS CONFERENCE CALL: FRIDAY, DECEMBER 17, 2004, 10:00 a.m.

Dial-In Number: 1-800-467-2166

Passcode (after dialing in): 453627, followed by the # sign

PURPOSE OF CALL: Procedural Status  
Readiness for Third Hearing

HEARING OFFICER: Richard R. McGill, Jr.

**HEARING OFFICER ORDER**

The proponent of this rulemaking is the Illinois Association of Wastewater Agencies (IAWA). IAWA seeks to amend the Board's rule establishing general use water quality standards for dissolved oxygen (35 Ill. Adm. Code 302.206). IAWA filed its proposal with the Board on April 19, 2004. The Board held public hearings in this rulemaking on June 29 and August 12, 2004. The hearing officer conducted status conference calls on September 13, October 13, and November 17, 2004. Below is a summary of the last call and information on the next call, which is scheduled for December 17, 2004.

**November 17, 2004 Status Conference Call**

The hearing officer was joined on the November 17, 2004 conference call by the following participants: Roy Harsch, Bob Clavel, IAWA; Stefanie Diers, Deborah Williams, and Bob Mosher, Illinois Environmental Protection Agency (IEPA); and Albert Ettinger, Environmental Law & Policy Center, Prairie Rivers Network, and Sierra Club.

Mr. Harsch of IAWA stated that the United States Environmental Protection Agency (USEPA) had not yet provided data from Ohio waters regarding dissolved oxygen. However,

according to Mr. Harsh, USEPA explained that it had the data and indicated that the data may be made available within a week. Initially, the USEPA data is expected to be circulated among IEPA, IAWA, the Illinois Department of Natural Resources (DNR), and Mr. Ettinger's organizations. Ultimately, the USEPA data is expected to be filed with the Board.

Mr. Harsh further noted that since the last status conference, the DNR "white paper" regarding the dissolved oxygen standard had been circulated among IEPA, IAWA, USEPA, and Mr. Ettinger's organizations. The DNR document is expected to be filed with the Board. In addition, Ms. Diers explained on a prior status call that USEPA had given IEPA general comments on the rulemaking in a September 2004 letter. That USEPA letter is also expected to be filed with the Board.

On the record at the August 12, 2004 hearing, Mr. Ettinger asked that the Board withhold ruling on the July 21, 2004 motion to suspend consideration of this rulemaking (motion to suspend) that he filed on behalf of Environmental Law & Policy Center, Prairie Rivers Network, and Sierra Club. Mr. Ettinger asked during the September 13 and October 13, 2004 status conferences that the Board continue to withhold ruling on the motion to suspend. During the November 17, 2004 status conference, Mr. Ettinger stated that he would submit a filing with the Board withdrawing the motion to suspend.

The participants on the November 17, 2004 status conference discussed potential dates for a third hearing. Mr. Harsch proposed several dates that would work for IAWA: week of January 17, 2005 (except the 19th); week of January 24, 2005; or February 1, 2, 3, 16, 17, or 22, 2005. Other participants on the call could not yet commit to any specific hearing dates, but the participants agreed to hold a stakeholder meeting during the week of December 6 or December 13, 2004. The participants indicated that the stakeholder meeting could be used to discuss any USEPA data made available, as well as dates for a third hearing and a preceding date for submitting pre-filed testimony to the Board.

At the conclusion of the November 17, 2004 call, the consensus among the participants was to have the hearing officer conduct a fourth status conference call in approximately one month—before proceeding to the third hearing, but after the mentioned stakeholder meeting takes place. With the participants' agreement, the hearing officer scheduled a status conference call for December 17, 2004, which is discussed below.

#### **December 17, 2004 Status Conference Call**

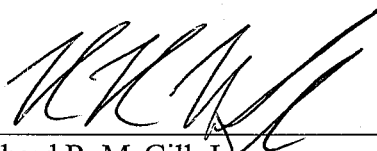
A fourth status conference call is scheduled for Friday, December 17, 2004, at 10:00 a.m. The hearing officer will conduct the status conference, the purpose of which is limited to having the proponent and other participants provide a status report on their readiness to proceed with a third public hearing in this rulemaking. Only questions and comments related to the procedural purpose of this status conference will be allowed during the call. The status conference therefore will not be used to discuss the merits of the proposal or to receive evidence on the proposal.

The hearing officer does not presently expect to hold a fifth status conference before the third hearing is held. Accordingly, during the fourth status conference call, **participants should be prepared to discuss potential dates for the third hearing's pre-filed testimony filing deadline and for the third hearing itself, which is anticipated to take place in Chicago.**

Mr. Harsch is arranging the teleconferencing service for the December 17, 2004 status conference call. Anyone may participate in the status conference, whether by speaking or merely listening. The dial-in number for the status conference call will be 1-800-467-2166. After dialing in, you will be prompted to enter the passcode for the conference, which will be 453627, followed by the # sign. Those wishing to join the status conference early may do so beginning 15 minutes before the scheduled 10:00 a.m. start. If you are having any difficulty joining the call, please dial 1-800-788-1085.

Fifteen phone lines will be reserved for the December 17, 2004 status conference call. To ensure that enough lines are available for all those wishing to participate, **please contact the hearing officer at (312) 814-6983 or mcgillr@ipcb.state.il.us by December 15, 2004, if you would like to participate in the status conference call.** Additional phone lines may be added as needed. After the status conference, the hearing officer will prepare a short report documenting the participants in, and matters discussed during, the call.

IT IS SO ORDERED.



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Richard R. McGill, Jr.  
Hearing Officer, Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
(312) 814-6983 mcgillr@ipcb.state.il.us