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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DEC 21 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)

PC#17

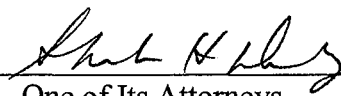
NOTICE OF FILING

TO: See Attached Certificate of Service

PLEASE TAKE NOTICE that on **Tuesday, December 21, 2004**, we filed the attached **Comments of the Home Builders Association of Illinois and Attainable Housing Alliance** with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

HOME BUILDERS ASSOCIATION OF ILLINOIS
and ATTAINABLE HOUSING ALLIANCE

BY: 
One of Its Attorneys

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COMMENTS OF THE
HOME BUILDERS ASSOCIATION OF ILLINOIS AND
ATTAINABLE HOUSING ALLIANCE

The Home Builders Association of Illinois (“HBAI”) and the Attainable Housing Alliance (“AHA”) appreciate the opportunity to submit these comments on the rulemaking proposal filed by Illinois EPA proposing an interim phosphorus effluent standard for new or expanding wastewater treatment facilities. HBAI is comprised of thousands of member firms from local associations in every geographic region of the State, and is affiliated with the National Association of Home Builders. Member firms of HBAI include homebuilders, developers, remodelers, suppliers, subcontractors, and other affiliated businesses. HBAI advocates the concept of attainable quality housing for all residents of the State of Illinois. AHA presently represents over 800 members of the Northern Illinois Home Builders Association, the Home Builders Association of the Greater Fox Valley and the Home Builders Association of Greater Chicago. AHA was formed to provide a unified voice for the building industry in the eight-county metro area, including Chicago. The goal of AHA is to represent the housing industry on public policy issues that affect the attainability and ownership of housing. AHA believes that the subject of this rulemaking is one such issue.

Standards such as the proposed effluent limitation frequently impose costs on home builders in the form of impact fees. It is important that those entities that have to spend the money to comply with standards at a cost to taxpayers and constituents should have

confidence that standards are necessary and properly promulgated. Because HBAI and AHA do not have confidence in the scientific basis for the proposed rule, HBAI and AHA join those members of the regulated community that have opposed this rule. HBAI and AHA believe the rule to be insufficiently supported by scientific evidence.

HBAI and AHA understand that, as proponent of the proposal, the Illinois EPA is required to provide an environmental, technical, and economic justification for the proposed rule. See 35 Ill. Adm. Code 102.202. The Illinois EPA has not provided an adequate environmental, technical or economic justification for a new statewide effluent limitation. Illinois EPA has publicly stated that the proposed rule is intended to fulfill an election year pledge by Governor Rod Blagojevich to address phosphorus in sewage plant discharges as well as reduce the regulatory burden on Illinois EPA associated with the NPDES permit program and objections to proposed permits by environmental groups for construction of new or expanded wastewater treatment facilities. HBAI and AHA believe these objections during the permit process are in many instances an abuse of the system and are not an appropriate basis for a rulemaking with real world costs.

HBAI and AHA understand that the Illinois EPA has not disputed the lack of scientific evidence for this standard and has acknowledged that phosphorus is not a problem in some streams that would be subject to a generally applicable standard such as the one proposed. (Tr. at 108, lines 2 through 12). For streams where phosphorus can be shown to be impairing a recognized stream use, regulations are in place to allow the Illinois EPA to address this. For receiving streams where it cannot be determined that there will be a benefit from reductions in phosphorus levels, however, the proposed interim limit would result in the installation and operation of treatment technology with no known benefit and an unknown cost.

HBAI and AHA also understand that the entities that provide wastewater treatment services believe the record in this case to be deficient on information concerning the cost of this proposed regulation and has omitted important components of the cost. Home builders are being asked to bear ever increasing costs associated with alleged environmental degradation and impacts related to growth. These costs in turn have a direct bearing on the cost of housing in Illinois and its affordability to Illinois citizens. In this particular case, should this standard be adopted, it is expected that in many instances home builders that will bear the upfront capital cost and operating costs if increased wastewater capacity is required. While home builders are willing to pay their fair share, it is imperative that standards intended to protect the environment should be based on sound science and not for the purposes of slowing growth or on the basis of unsupported claims concerning environmental impacts. And it is important to have a clear understanding of the cost of a regulation to all affected parties.

HBAI and AHA is aware that the state is moving forward on developing nutrient standards as part of a Illinois Nutrient Work Group approved by U.S. EPA. HBAI and AHA support this process and anticipate that it will result in scientifically-based standards that the regulated community can have confidence in and that meet the Board's rules for adequate support of the environmental, technical and economic justification for each rule.

HBAI and AHA thank the Board for consideration of these comments.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **Comments of the Home Builders Association of Illinois and Attainable Housing Alliance** 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 **Tuesday, December 21, 2004.**

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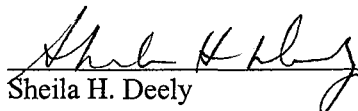
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