

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

AUG 29 2005

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
REVISIONS TO RADIUM WATER )  
QUALITY STANDARDS: PROPOSED )  
NEW 35 ILL. ADMIN. CODE § 302.307 )  
AND AMENDMENTS TO 35 ILL. ADMIN. )  
CODE §§ 302.207 AND 302.525 )

R04-21  
Rulemaking - Water

PC#52

NOTICE OF FILING

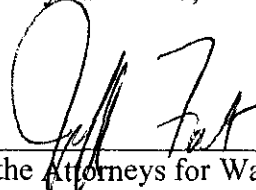
To: See Attached Service List

Please take notice that on August 29, 2005 Water Remediation Technology LLC, by its undersigned attorneys, filed with the Office of the Clerk of the Illinois Pollution Control Board an original and ten copies of the attached *MOTION TO FILE SUPPLEMENTAL PUBLIC COMMENT*, a copy of which is served upon you.

Dated: August 29, 2005

Respectfully submitted,

By:



One of the Attorneys for Water Remediation  
Technology LLC

Jeffrey C. Fort  
Letissa Carver Reid  
Dana Orr  
Sonnenschein Nath & Rosenthal LLP  
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THIS FILING IS BEING SUBMITTED ON RECYCLED PAPER

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MOTION TO FILE SUPPLEMENTAL PUBLIC COMMENT

Water Remediation Technology LLC ("WRT") by and through its attorneys and pursuant to 35 Illinois Administrative Code 102.108(d) requests leave to submit an additional supplemental public comment to the Board in this proceeding. This supplemental comment responds to information, that was not made available to counsel for WRT until it was filed with the Joliet Comments on August 15, 2005. WRT requests leave to submit this very concise (two pages) supplemental public comment to clarify the record and avoid material prejudice..

When the City of Joliet asked for leave to extend the public comment period, it said it was because of the need for conducting additional water quality sampling. Counsel for WRT agreed to that requested continuance provided that supplemental information was provided by August 1, 2005, to permit the informatoin to be considered before WRT submitted its August 15, 2005 public comments. [See Attachment A hereto, consisting of an e-mail exchange between counsel for Joliet and WRT, contemporaneous with the filing of the Joliet motion for more time.]

Counsel for Joliet did provide the water quality information (attached to the WRT comment as Attachment 1, and also included as part of Joliet's Attachment 1), but did not provide any of the other underlying information which is now presented to the Board. [See

Attachments 2 and 3.] Joliet did not disclose that it was going to submit any information other than the water quality sampling. And it did not submit the MSDGC data on the Lemont plant or the Chicago Sanitary and Ship Canal [See Exhibit 1 Supplement to Joliet's Comments].

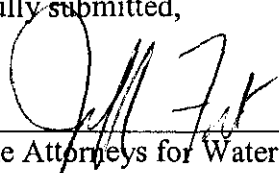
WRT's Supplemental Comments are intended to simplify the issues and to note where there are remaining issues of disagreement. However, WRT submits that the issues of disagreement in this record are site-specific to Joliet and not of general applicability relating to the alternative language suggested by the Agency.

WRT will be materially prejudiced if it is not permitted to respond to the other information attached to Joliet's comments and therefore requests that this motion be granted..

August 29, 2005

Respectfully submitted,

By:

  
\_\_\_\_\_  
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8/29/2005

**Sent:** Monday, May 16, 2005 2:18 PM  
**To:** Fort, Jeffrey C.  
**Subject:** RE: radium

Yes and No. As I explained to you we will code the data so that it is from POTW A, etc. so as to not divulge the name. Putting the data on a map would allow for identification. What we want to do is get data on the effluent from POTWs. It will no doubt have a scatter.

-----Original Message-----

**From:** Fort, Jeffrey C. [mailto:jfort@sonnenschein.com]  
**Sent:** Monday, May 16, 2005 2:10 PM  
**To:** Harsch, Roy M.  
**Subject:** radium

Roy,

I received your motion today. I had two items to clarify, based on our call on Friday:

- as you and I discussed, you will deliver the data to us, on behalf of WRT, by August 1.
- I am assuming that the "data" delivered would include a map of where the data originated and other supporting information so as to allow a meaningful review.

Could you confirm by re-turn e-mail? Thanks

Jeff

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This e-mail and any attachments are confidential and may be protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of this e-mail or any attachment is prohibited. If you have received this e-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system. Thank you for your cooperation.

SONNENSCHN NATH & ROSENTHAL LLP  
Visit us on the web at <http://www.sonnenschein.com>  
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8/29/2005

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<b>NEW 35 ILL. ADMIN. CODE 302.307</b>	)	<b>Rulemaking - Water</b>
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<b>CODE 302.207 AND 302.525</b>	)	

**SUPPLEMENTAL COMMENTS OF  
WATER REMEDIATION TECHNOLOGY LLC CONCERNING SECOND  
FIRST NOTICE COMMENTS SUBMITTED BY THE CITY OF JOLIET**

Water Remediation Technology LLC (“WRT”) by and through its attorneys respectfully submits these supplemental comments in this proceeding.

1. WRT supports the alternative regulatory language presented by the Agency at pages 12-13 of its Second First Notice Comments. We also concur in the concerns raised relating to the deposition into sediments, and onto farm fields, of highly radioactive particles, and therefore urge the Board and the Agency to require monitoring of those conditions in wastewater and sludge application permitting conditions.

2. New information on water quality and radon monitoring is presented by Joliet in its Comments filed August 15. Included in Exhibit 1 Supplement is a letter dated August 3, 2005 from the Metropolitan Water Reclamation District of Greater Chicago concerning radium levels at the Lemont Water Reclamation Plant and in the Chicago Sanitary and Ship Canal. That August 3 letter confirms that the Chicago Sanitary and Ship Canal water quality is below the proposed 3.75 pCi/L standard for combined radium 226 and 228.<sup>1</sup>

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<sup>1</sup> The reported concentrations for the Lemont Water Reclamation plant influent and effluent are generally consistent with “Community A” as submitted by Joliet, an assumption WRT made in submitting its comments. The IEPA has indicated that an annual average for the water quality standard would be an appropriate application of this

3. The comments submitted by the City of Joliet make various assertions about the habitat for riparian mammals and the costs of the WRT processes. WRT objects to the inclusion of this material at this late date. The former issue was the subject of the October hearings in this matter and the information presented is based on a 1984 study of muskrats. There is no reason that information could not have been presented earlier. With respect to the cost information, that information is focused on specific assumptions for Joliet, and indeed includes many assumptions that WRT would challenge.<sup>2</sup> But regardless of these contingencies and the number of assumptions that the engineer made in the letter report to make the WRT process more costly, the WRT process clearly saves some communities millions of dollars. See Hearing Ex. 5.

4. Some have asked the Board not to adopt any change to the existing water quality standard, or to adopt the IEMA standard for discharges of radionuclides.<sup>3</sup> Those same parties do not, however, ask to be regulated by any other requirements of IEMA. WRT is the only vendor which has submitted its treatment technology to licensing and regulation by the IEMA -- including the worker disclosure, monitoring and safety rules, and the rule that radionuclide solids cannot be discharged down a POTW sewer. See Hearing Ex. 17.

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criteria, and one that is acceptable to U.S. EPA. That position is consistent with the averaging methods used in Table 1 to the WRT Comment.

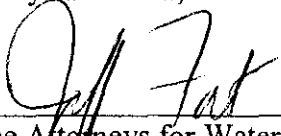
<sup>2</sup> See e.g. Joliet Comments, Tab 3, p.3 (final sentence); see also page 2, para 1. (Treatment for iron is needed for shallow wells, which is then used to assume added costs for iron removal for all wells, deep and shallow.) The letter report does confirm WRT's testimony that a retrofit can be made [and suggests it may need to be made] to prevent highly radioactive particles from being discharged into the sanitary sewers and ending up in the POTW sludge. Interestingly, the cost of that retrofit is far less than the costs Joliet asserted as required for landfilling the POTW sludge in its comments dated November 24, 2004 in this proceeding.

<sup>3</sup> Preventing highly radioactive particles from being sewerred also meets, respectively, the rules of the IEMA for its licensees to prevent radionuclide solids from being disposed in sanitary sewers, and the guidance from U.S. EPA to prevent radionuclide solids from being land applied. Recall also that the levels of radionuclides in POTW sludges may exceed the average levels of radioactivity of the uranium tailings which, when spread on what became the Reed-Kepler Park in West Chicago, had to be removed in a Superfund removal action. [See WRT comments, filed August 15, at 16, fn 7.]

THEREFORE, we recommend the Board adopt the Agency's proposed language for 3.75 pCi/L total radium as an annual average. We also again suggest the Board recognize the sludge disposal issue, and either insert a comment into this rule, or initiate inquiry hearings on the potential problems of radionuclide solids being mixed with sanitary sewage and the resulting sludge.

August 29, 2005

Respectfully submitted,

By:   
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**CERTIFICATE OF SERVICE**

The undersigned, an attorney, certifies that he/she has served upon the individuals listed on the attached Service List true and correct copies of *MOTION TO FILE SUPPLEMENTAL PUBLIC COMMENT* by First Class Mail, postage prepaid, on August 29, 2005.

  
\_\_\_\_\_



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