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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AUG 31 2005

IN THE MATTER OF:)

INTERIM PHOSPHORUS EFFLUENT)
STANDARD, PROPOSED 35 ILL ADM.)
304.123 (G-K))

STATE OF ILLINOIS
Pollution Control Board

R04-26
(Rulemaking – Water)

NOTICE OF FILING

TO: Attached Service List

PLEASE TAKE NOTICE that on August 31, 2005 I have filed with the Office of the Clerk Pollution Control Board the Illinois Association of Wastewater Agency's Motion for Leave to File Instanter Additional Comments and a copy of the Additional Comments, copies of which are herewith served upon you.

Respectfully submitted

ILLINOIS ASSOCIATION OF WASTEWATER
AGENCIES

BY: 

One of Its Attorneys

I.D. # 90304
GARDNER CARTON & DOUGLAS LLP
Roy M. Harsch
191 N. Wacker Drive - Suite 3700
Chicago, IL 60606-1698
Telephone: (312) 569-1000
Facsimile: (312) 569-3000

THIS FILING IS BEING SUBMITTED ON RECYCLED PAPER

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MOTION FOR LEAVE TO FILE INSTANTER ADDITIONAL COMMENTS

Now comes the Illinois Association of Wastewater Agencies (IAWA) by its attorneys Roy M. Harsh and Gardner Carton & Douglas to move the Illinois Pollution Control Board for Leave to File Instanter Additional Comments. In support of this motion IAWA states as follows:

- 1) Through a combination of factors including the vacation schedule, workloads and other demands IAWA has been unable to formulate these additional comments until this time.
- 2) The undersigned counsel for IAWA has been occupied in preparing for and participating in the hearing last week on the dissolved oxygen rulemaking in R04-24 on behalf of IAWA. merely
- 3) The purpose of this comment is not to prejudice other parties but to provide the Board with IAWA's unique insight to correct what IAWA believes to be a mistake by the Board in its prior order.

Wherefore IAWA respectfully requests the Illinois Pollution Control Board leave to file the attached Additional Comments instanter for the reasons set forth herein.

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ADDITIONAL COMMENTS

The Illinois Association of Wastewater Agencies (IAWA) respectfully submits its comments in response to those filed by the Illinois Environmental Protection Agency (IEPA) on July 20, 2005 and the comments filed by the Environmental Law and Policy Center, Prairie Rivers Network and Sierra Club on or about July 1, 2005. IAWA respectfully disagrees with the Pollution Control Board's ("Board") decision to proceed to First Notice in this matter for the reasons set forth in IAWA's previous comments. IAWA nevertheless believes that the Board, to the extent it is moving forward, should do so based on accurate information. To that end, IAWA in its comments filed on June 20, 2005 provided what it believes to be an accurate and thorough evaluation of the cost for phosphorous control based upon real data from its members and consultants who provide waste water service or practice in Illinois.

To the extent the Board relied upon cost estimates submitted in the record by representatives of the environmental organizations based upon estimates provided by the City of Elgin in a facility plan amendment request, the Board is relying on information which is not correct. In support thereof, IAWA has attached a letter from Mr. Greg Hergenroeder, Director of the Fox River Water Reclamation District which is the waste water agency that services the area encompassing the city of Elgin. As set forth in Mr. Hergenroeder letter, the previously cited costs are not accurate and he believes that the costs contained the IAWA public comment are

more accurate. He further estimates that costs for chemical phosphorous control would be approximately \$3,000,000.

In response to the comments filed by the IEPA, IAWA states that the information it provided regarding the actual cost for twenty facilities that constructed phosphorous removal in Wisconsin are probably much more accurate and realistic than cost estimates contained in the IEPA comments. The speculation that chemical feed facilities can be fit into existing buildings or buildings constructed at more reasonable cost than that incurred by the Village of Beecher is just that – speculation. The best evidence is the information provided by IAWA.

IAWA continues to believe that the Board is wrong in adopting this rule as the record does not provide any specific evidence regarding the necessity for this interim rule or any benefits to be derived from this interim rule in terms of resolving actual specific environmental issues. The cost, using whatever number the Board wishes to cite, are therefore unreasonable when compared to no specific environmental need or environmental benefit. Nevertheless, in furtherance of its stated goals of having rulemaking supported by good science and accurate information, IAWA would respectfully suggest that the Board should utilize the cost figures it submitted.

Respectfully submitted,

Illinois Association of Waste Water Agencies



One of His Attorneys for Plaintiff

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FRWRD

FOX RIVER WATER RECLAMATION DISTRICT

RAYMOND STREET & PURIFY DRIVE / P.O. BOX 328, ELGIN, IL 60121-0328 / PH. (847) 742-2088 FAX (847) 742-0193

July 15, 2005

Mr. Roy Harsch
Gardner Carton & Douglas
191 N. Wacker Dr.
Chicago, Illinois 60606-1698

Re: INTERIM PHOSPHORUS EFFLUENT)
STANDARD, PROPOSED 35 ILL.ADM.) R2004-26
304.123 (G-K)) (Rulemaking - Water)
)

Dear Mr. Harsch:

Having reviewed the notice of filing as submitted by Albert Ettinger July 1, 2005 regarding the referenced Interim Proposed Phosphorus Standard please consider the following: On page 2, paragraph II, I submit that the overall costs are not modest. The capital cost projection for removing phosphorus as provided by engineers hired by the City of Elgin is incomplete and in error. The City of Elgin is not the owner of the wastewater treatment facility and that estimate of cost serves no purpose. I understand that the origin of the capital cost estimate was included in the context of a Water Quality Amendment Plan Application providing for a map amendment to the Fox River Water Reclamation District FPA without the need for construction of treatment facilities. The cost provided in the document was not approved by the designated management agency, the Fox River Water Reclamation District.

Comments submitted by the Illinois Association of Wastewater Agencies in the same Illinois Pollution Control Board proceeding stipulate overall costs for removing phosphorus including sludge handling considerations. The capital costs range from $\$2.3 \times 10^5$ to $\$3.8 \times 10^5$ per million gallons of capacity and total present worth costs for chemical removal facilities for plants with capacities from one to two MGD at $\$6 \times 10^5$ to $\$1.0 \times 10^6$.

Therefore for the plant referenced in the abovementioned filing I would estimate the new facilities present worth for the Fox River Water Reclamation District with chemical phosphorus removal on the order of \$3,000,000.00.

Your attention to this matter is appreciated.

Sincerely,
Fox River Water Reclamation District



Gregory Hergenroeder, P.E.
General Manager

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OFFICIALS

Gregory Hergenroeder, P.E., *General Manager*; Douglas J. Schellow, *Attorney*

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Motion for Leave to File Instant Additional Comments and the Additional Comments was 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, IL on Wednesday, August 31, 2005 .



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R04-26

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