

ILLINOIS POLLUTION CONTROL BOARD

November 3, 2005

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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)

HEARING OFFICER ORDER

This order addresses two motions. In one motion, the Illinois Environmental Protection Agency (Agency) asks the hearing officer to require the filing of an additional status report in this rulemaking. In the other motion, a witness requests corrections to the transcript of the August 25, 2005 hearing. As described below, the hearing officer grants both motions.

On October 28, 2005, the Agency filed a status report pursuant to the hearing officer's order of August 30, 2005. In its status report, the Agency states that since the August 25, 2005 hearing, the third hearing in this rulemaking, the Agency has been meeting with the Illinois Department of Natural Resources (DNR). Specifically, the status report explains that the Agency and DNR have been working to "develop a state position concerning Illinois' current dissolved oxygen standard" and discussing "the development of an interim tiered approach for dissolved oxygen." Report at 1.

A stakeholder meeting was held on October 19, 2005, attended by representatives of the Agency, DNR, the United States Environmental Protection Agency, the Illinois Association of Wastewater Agencies (the proponent of this rulemaking), the Illinois Environmental Regulatory Group, Sierra Club, Prairie Rivers Network, Friends of the Chicago River, and Midwest Generation. Another stakeholder meeting is scheduled for November 15, 2005. Report at 1-2. The status report states that the Agency and DNR are "hopeful that in the near future the supplemental assessment activities currently being undertaken will be completed, the results evaluated and a position developed that both Illinois EPA and IDNR can support with confidence." *Id.* at 2.

The Agency asks that the hearing officer require the filing of another status report by November 30, 2005, in which the Agency would "explain the progress to date, the status of stakeholder discussions and possible meetings [and] . . . include if appropriate the suggested dates for a fourth hearing." Report at 2. There has been no response filed to this Agency motion. The hearing officer grants the Agency's motion. Accordingly, the Agency must file a second status report by November 30, 2005. This filing may be made electronically through the Board's Web-based Clerk's Office On-Line (COOL) at www.ipcb.state.il.us. Any filing with the Board must also be served on the hearing officer and on those persons on the Service List.

The second motion ruled upon in this order was filed on September 8, 2005, by a witness who testified at the August 25, 2005 hearing, Dr. Thomas J. Murphy. Dr. Murphy asks that numerous corrections be made to the third hearing's transcript concerning his testimony.

Section 101.604 of the Board's procedural rules (35 Ill. Adm. Code 101.604) allows any witness to "file a motion with the hearing officer to correct the transcript within 21 days after receipt of the transcript in the Clerk's Office." Because the Clerk's Office received the third hearing's transcript on September 6, 2005, Dr. Murphy's motion is timely. No response to Dr. Murphy's motion has been filed.

The hearing officer grants Dr. Murphy's motion. To avoid any potential confusion, the R04-25 docket sheet entry for the August 25, 2005 hearing transcript will reflect that the hearing officer granted Dr. Murphy's motion to correct. For further clarity, the Clerk's Office has been instructed to physically and electronically attach this hearing officer order and Dr. Murphy's motion (with the transcript corrections) to the front of the August 25, 2005 hearing transcript.

IT IS SO ORDERED.



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