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MAY 30 2006
STATE OF ILLINOIS
Pollution Control Board

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS

BEFORE THE ILLINOIS
POLLUTION CONTROL BOARD

CITY OF SPRINGFIELD, ILLINOIS)
a municipal corporation)
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)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB No. 2006-137

Motion For Expedited Review

CITY OF SPRINGFIELD, ILLINOIS, by its attorneys, hereby moves and requests the Board pursuant to Section 101.512 of the Board's regulations to conduct expedited review in this proceeding, and in support thereof states as follows:

1. On February 9, 2006, Petitioner filed a Petition for Variance with the Board seeking relief from the Board's dissolved oxygen general use water quality standard, set forth at 35 Ill. Adm. Code 302.206.
2. The Board has previously granted similar requests by Petitioner for variances for the same purpose.
3. On February 17, 2006, Petitioner filed a motion to incorporate the records of the prior Board proceedings granting the similar requested variances.
4. In its petition, the Petitioner also waived hearing contingent upon a positive recommendation by the Respondent, Illinois Environmental Protection Agency.

5. On March 16, 2006, the Board issued an order in this matter granting Petitioner's motion to incorporate and further directing the Petitioner to provide more information on matters specified in the Order.

6. In the Order, the Board also advised that pursuant to Board rule 104.226, any substantive amendment to the petition recommences the 120-day decision period.

7. Petitioner has concurrently with this motion filed an Amendment to Petition for Variance in response to the aforementioned Board Order in this matter.

8. While the drainage area of Lake Springfield has received some precipitation since February 9, 2006, and Petitioner has been able to pump millions of gallons of water from the South Fork, the current lake level (558.50) is still below average for this time of year. The lake level has increased by 1.9 feet since the initial filing of the Petition.

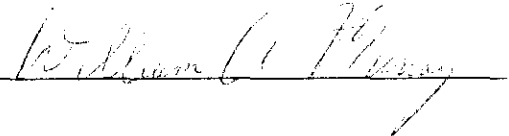
9. However, according to the Governor's Illinois Drought Response Task Force, as reported at its meeting on March 22, 2006, that although March and April may bring above average precipitation in central Illinois, indicators point to a possibility of a dry summer.

10. Given the uncertainty of the severity and duration of the drought conditions since spring of 2005, should the Board deem the filing of an Amendment to Petition constitutes a recommencement of the decision period, the Petitioner requests and moves that the Board grant expedited review to this matter.

WHEREFORE, Petitioner respectfully requests that the grant expedited review of the subject matter of this proceeding.

Respectfully submitted

CITY OF SPRINGFIELD, ILLINOIS
a municipal corporation

By: 

Jenifer L. Johnson
Corporation Counsel
Municipal Center East
Springfield, Illinois 62757-2393

William A. Murray
Office of Public Utilities
Municipal Center East
Springfield, Illinois 62757-0001
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STATE OF ILLINOIS)
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COUNTY OF SANGAMON)

BEFORE THE ILLINOIS
POLLUTION CONTROL BOARD

CITY OF SPRINGFIELD, ILLINOIS)
a municipal corporation)
)
Petitioner,)
)
) PCB No. 06-137
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

AMENDMENT TO PETITION FOR VARIANCE

CITY OF SPRINGFIELD, ILLINOIS, by its attorneys, hereby amends its petition to the Illinois Pollution Control Board (Board) to grant Petitioner a variance from 35 Ill. Adm. Code 203.206 of the Board's regulations, and in support thereof states as follows:

1. Petitioner filed its Petition for Variance in this matter on February 9, 2006.
2. On March 16, 2006, the Board issued an Order requesting that the Petitioner provide additional information to certain matters specified in that Order.
3. Petitioner hereby restates and adopts all statements set forth in its original Petition including all exhibits thereto.
4. Petitioner hereby provides the following information in response to the Board's request of said March 16 Order in the same order as the requests were presented by the Board:
 1. Please provide a map of the locations of the proposed dams and pools that would be created from those dams. Please provide a general indication of the expected perimeter of pool formations on the map. 35 Ill. Adm. Code 104.204(b)(1).

Response: Maps showing the locations of the two proposed dams and the pool to be created by installation of the dams can be found at Exhibit 9 of Report of Proceedings in PCB 88-113 in Book II of the Record of Proceedings for that docket. By the Board's Order of March 16, 2006, these records were incorporated into this proceeding. Petitioner's description of the pool to be created is at Paragraph 3b of its Petition. The pool to be created by the dams would essentially be contained within the existing banks of the Sangamon River and the South Fork of the Sangamon River for the distances set forth in the Petition. Where there are unnamed tributaries to these Rivers or other backwater areas adjacent to the Rivers in the distances upstream of the pool, the pool would enter these unnamed tributaries and backwater areas as well. Modeling required by the Illinois Department of Natural Resources demonstrated that the installation of the dams would cause no flood impacts during flood events with the temporary dams in place. Attached hereto as Exhibit 12 to the Petition is an additional map depicting the two rivers and the unnamed tributaries and backwater areas comprising the pool.

2. Please provide the proposed locations of dissolved oxygen monitoring stations that Condition 6 of PCB 00-179 requires both above and below the proposed dams. If there is not yet a proposed location, please provide the kind of evaluation that would be used to determine the location of dissolved oxygen monitoring. 35 Ill. Adm. Code 104.204(b)(1).

Response: Petitioner would propose to monitor dissolved oxygen at locations 100 feet above and below the temporary dam on the Sangamon River and at the South Fork at a location near Mechanicsburg Road, about one-half mile above the location of the temporary dam on the South Fork of the Sangamon River.

3. Springfield mentions that a cascade aerator was proposed on the downstream side of at least one of the temporary dams in the dissolved oxygen analysis submitted as Exhibit 6 to the 1998 petition. Is a cascade aerator considered in the design and cost estimates of this petition for variance? If not, will Springfield install one if the temporary dams are constructed? If so, should the installation of the cascade aerator be a variance condition? 35 Ill. Adm. Code 104.204(b)(7).

Response: The original design of the temporary dam on the Sangamon River (1988) provided for a discharge pipe to accommodate the required release rate of 41 cfs which would be installed prior to installation of the dam. The discharge pipe would have run from a point above the dam through the north bank of the River to a discharge point below the dam adjacent to the bank of the River discharging across rip rap down to the river water level or bed, as the case may be. Subsequent to the issuance of the most recent variance in 2000 (PCB No. 00-179), the design of the temporary dam was changed when the Petitioner conducted new hydrologic modeling of the streams with the dam in place. Due to

concern with the required head being adequate for the discharge on the original design, the discharge pipe is now contemplated as being placed in the base of the dam, and more likely to be discharging at the channel bed level below the dam. The only supplemental aeration that would occur below the dam would be during periods when the pool exceeded the height of the temporary dam and cascaded on the rip rap supporting the dam on its downstream side. The installation of the cascade aerator should not be a variance condition.

4. The petition states that “Hanson Engineers was retained on July 5, 2005 to provide requested updated summary information regarding project alternatives and additional environmental impacts related to the proposed village sewer projects.” Pet. At 34-35. Please provide the Board with the updated information. 35 Ill. Adm. Code 104.204(c).

Response: The updated information to be compiled by Hanson Engineers is with respect to the Petitioner’s long-term supplemental water supply, namely the Hunter Lake Project and its alternatives. The endeavor did not produce updated information with respect to the Emergency Water Supply Plan (including the emergency diversion of the Sangamon River). The following information is provided regarding the Petitioner’s ongoing efforts to secure a long-term supplemental water supply, unrelated to the Emergency Water Supply Plan elements, and which water supply would be intended to eliminate the need for the emergency measures that would utilize the temporary dams on the Sangamon River and its South Fork.

Sewage issues. A proposed sewage treatment plan would provide for a sewer forcemain from the three communities upstream of Hunter Lake (Virden, Divernon and Pawnee) to be routed to the Springfield Metro Sanitary District, thereby eliminating the current discharges in the Hunter Lake watershed. Evaluation of environmental impacts associated with the joint sewer pipeline will be included as updates to the Final Environmental Impact Statement (FEIS) for the Hunter Lake project.

Design changes that affect the Hunter Lake project area footprint or changes in the project area conditions that may have occurred since the completion of the FEIS. A proposed Horse Creek channel re-alignment in Pawnee is the only design change proposed aside from the sewage issues mentioned above. The only new change to project area conditions is that the Sangamon County Highway Department has initiated construction on the replacement of the New City Road Bridge over Horse Creek. The bridge is being constructed to specifications suitable to alleviate any impact associated with the possible construction of Hunter Lake.

Revised costs of Hunter Lake and FEIS alternatives. Costs for the Hunter Lake project and long-term water supply alternatives consistent with the revised

demand analysis for a future supplemental supply will be evaluated. See item 5 below regarding a revised demand analysis.

5. The petition states that technical evaluations of Springfield's long-term water supply needs were completed in 1957, 1965, 1972, 1980, 1981, and 1986. Pet. at 4. Has Springfield conducted any technical evaluation of the long-term water supply needs in the past 20 years? If so, what are the results? If not, why? 35 Ill. Adm. Code 104.204(c).

Response: Subsequent to the 1957, 1965, 1972, 1980, 1981 and 1986 evaluations of long-term water supply needs for Springfield, the Petitioner conducted a water supply evaluation in 1991, which determined that the shortfall between water demand and yield for a period representing the 100-year drought condition in the year 2025 was 15.3 mgd. This analysis formed the basis of Springfield's application for construction of Hunter Lake as the City's long-term supplemental water supply. This study is discussed in Paragraph 26 of the original Petition in this proceeding. In 2005 Springfield re-evaluated yield and demand and concluded that after implementation of various conservation and water management strategies, the shortfall in supply would be reduced, but still as high as 9.2 mgd, indicating that a long-term supplemental supply should still be pursued.

6. Please clarify the time frames for completing the temporary lake for the Sangamon River diversion project and Hunter Lake. See Pet. at 4, 9-10, and 39. Please include the phases of the projects from initiation of design to project completion. 35 Ill. Adm. Code 104.204(f)(2).

Response: The Petitioner estimates that it would take approximately 30 days to install the temporary dams on the Sangamon River and its South Fork once the determination was made that it was necessary to activate this element of the emergency water supply plan. The Petitioner estimates that if a permit is issued by the Corps of Engineers for the Hunter Lake project, that it would take a minimum of five years to complete detailed design, secure project funding, complete land acquisition, construct the necessary facilities, and fill the new lake.

7. Springfield indicates that it has submitted a new permit application to the Army Corps of Engineers to construct a dam on the Sangamon River that is required by Springfield's emergency water supply plan. Pet at 11. Please provide a copy of the part of the permit application to which this variance would apply. 35 Ill. Adm. Code 104.204(i).

Response: There is no particular part of the permit application with the Corps of Engineers that specifically pertains to the variance requested. The permit application is actually a multi-part application that is concurrently reviewed by the Corps, the Illinois Environmental Protection Agency (IEPA) and the Illinois Department of Natural Resources (formerly handled by the Illinois Department of Transportation). See Paragraph 4 of the Petition. Issuance of the variance would

enable IEPA to complete its review and issue its water quality certification for the project. The Petitioner does note that when the Corps issued its new permit in 2000 one of the permit special conditions was that all conditions listed in the Board's order in PCB 00-179 were deemed to be a part of the Corps permit. A copy of that permit is attached hereto as Exhibit 13.

8. Springfield requests the same variance language as is contained in PCB 00-179. The variance in PCB 00-179 applies to dissolved oxygen in the Sangamon River. Please clarify whether Springfield would like the variance also to apply to the South Fork of the Sangamon River and Sugar Creek as well. Also, please indicate whether a distance along each river should be specified, rather than applying the variance to the entire water body. 35 Ill. Adm. Code 104.204(j).

Response: Petitioner requests that the scope of the variance be applicable to the pool created by the temporary dams in both the Sangamon River and the South Fork of the Sangamon River. For the Sangamon River this would constitute the 6 mile pool that would be created on the Sangamon River and the 5.5 mile pool on the South Fork. The variance should also apply on the South Fork below the dam to its confluence with the Sangamon River. The variance should apply below the dam on the Sangamon River until the rock and crib dam which is located at the river mile 73.07. Petitioner does not believe it is necessary to apply the variance to Sugar Creek as this stream is not physically changed, and its confluence with the South Fork of the Sangamon River is below the dam on the South Fork. Note that the dam on the South Fork diverts water from its normal channel to its high water channel to a confluence with the Sangamon River.

9. In condition 2 of the PCB 00-179 variance, please indicate whether Springfield interprets "normal" to mean "average" as used in Pet. Exh. 2. 35 Ill. Adm. Code 104.204(j).

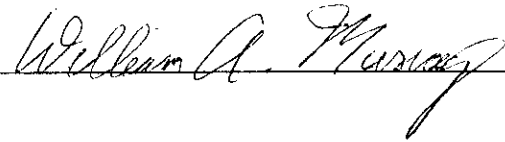
Response: Yes, the Petitioner would equate the term "normal" in Condition 2 of the PCB 00-179 variance with the term "average" as used in Exhibit 2 to its Petition.

WHEREFORE, Petitioner requests that the Board grant it a variance from 35 Ill. Adm. Code 300.026 for the duration of any Corps of Engineers permit for a temporary diversion of the Sangamon River and the South Fork of the Sangamon River during drought events for which the Illinois Environmental Protection Agency is required to give certification under the FWPCA.

Petitioner further waives a hearing on this petition in anticipation that the Illinois Environmental Protection Agency will respond favorably to the variance request. Alternatively, should said Agency oppose the variance request, Petitioner would request that the Board schedule a hearing on this petition.

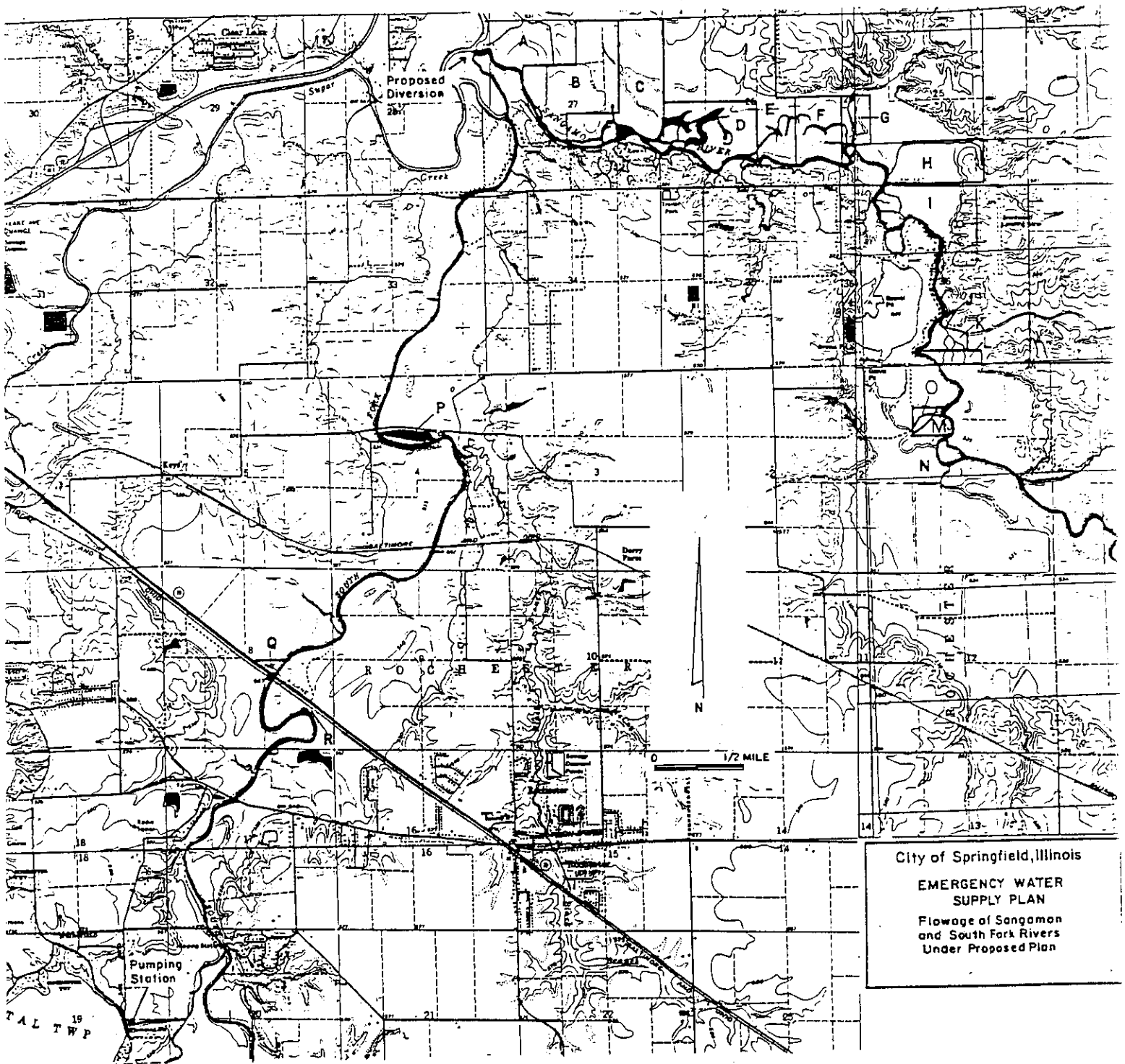
Respectfully submitted,

CITY OF SPRINGFIELD, ILLINOIS
a municipal corporation

By  _____

Jenifer L. Johnson
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William A. Murray
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City of Springfield, Illinois
**EMERGENCY WATER
 SUPPLY PLAN**
 Flowage of Sangamon
 and South Fork Rivers
 Under Proposed Plan

DEPARTMENT OF THE ARMY PERMIT

Permit Number: CEMVR-OD-P-391820

Section: 10/404

Permittee: City of Springfield
Department of Public Utilities
800 East Monroe – Municipal Center East
Springfield, Illinois 62757

POC: Thomas Skelly
Tel: 217-789-2116
ext 501

Effective Date: September 5, 2000

Expiration Date: June 8, 2005

Issuing Office: U.S. Army Corps of Engineers, Rock Island District
Clock Tower Building - P.O. Box 2004
Rock Island, Illinois 61204-2004

You are authorized to perform work in accordance with the terms and conditions specified below.

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

Project Description: To implement a drought management plan and to divert the Sangamon River to maintain adequate pool levels in Lake Springfield during periods of low precipitation. The trigger for implementation of conservation measures is when the pool level reaches elevation 558 during June.

1. The Sangamon River Emergency Plan includes the installation of temporary diversion dams at the confluence of the Sangamon River, the South Fork, and Sugar Creek. The topography of the Sangamon River and South Fork valleys will allow a 250-foot-long temporary dam to be constructed at Sangamon River mile 85.24 to impound water in the river channels such that existing pumping facilities at Lake Springfield could be utilized. A secondary structure (approximately 100 feet long) blocking the low arm of South Fork River also will be installed. The top elevation of the structures will be 525 feet msl. The structures will create a pool extending approximately 5.2 miles upstream of the dam on the Sangamon River, approximately 6 miles up the South Fork to the existing pumping facilities near Lake Springfield and 8 miles farther upstream of the pump station. The depth of the pool at the Sangamon River structure will be approximately 14 feet. The temporary diversion dams will be constructed of driven steel sheet piling. The final design of the diversion structure will include a conduit and valve configuration that will be of sufficient capacity to maintain a constant downstream release rate of 41 cfs whenever available in the river. A second option instead of the pipeline around the north side of the dam on the Sangamon River is a release pipe placed directly in the river and keyed into the sheet pile dam. A crest weir and riprap spillway will be constructed to permit higher river discharges to be passed at or near river elevation 525 msl. The riprap spillway base will also serve as a pad for construction equipment from which they can drive the sheet piling. River discharge gauging will be provided at the site.

2. The 525 foot elevation will be maintained within the existing Sangamon River basin and several low floodplain areas. Existing tributaries and mouths of intermittent streams along the Sangamon River approximately 5.2 miles upstream of the dam will experience more water than otherwise would occur. In the South Fork, the diverted water will be maintained within the channel except for one eight-acre stand of timber which will be inundated.

3. Installation of the temporary dams will be triggered by a lake elevation of 557 or less during June. Pumping will begin upon completion of the dams subject to available river discharge quantities. The temporary dams will be removed upon the resumption of normal lake levels during any given month (see following table).

<u>Month</u>	<u>Elevation</u>	<u>Month</u>	<u>Elevation</u>	<u>Month</u>	<u>Elevation</u>
January	558.00	May	559.73	September	558.37
February	558.15	June	559.80	October	558.86
March	558.72	July	559.44	November	557.81
April	559.33	August	558.93	December	557.90

4. Minimal clearing will occur at the ends of both dams where the sheet pile is driven into the banks of the rivers and for access of equipment (approximately 40-foot maximum circumference around the ends of the dams). Tree clearing will be avoided where possible.

Project Location: Section 27, Township 16 North, Range 4 West; 1.25 miles east of the unincorporated Village of Clear Lake, Sangamon County, Illinois; at the confluence of Sangamon River, South Fork, and Sugar Creek .

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit.

Drawings No. CEMVR-OD-P-391820. Sheet 1 of 2, Vicinity Map
Sheet 2 of 2, Site Plan

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on the date specified on page 1. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before that date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party, in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions. (Condition is not applicable for Section 10 Permits.)
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
2. That the conditions listed in the attached variance granted by the Illinois Pollution Control Board (PCB 00-179) dated June 8, 2000, are considered to be part of this permit.

Further information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.


b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).


c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

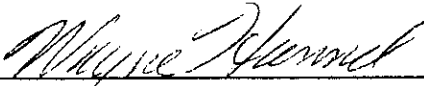
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



Permittee *Mayor*  Date 8-30-00

The issuing officer for this permit is William J. Bayles, Colonel, U.S. Army, District Engineer, Rock Island District.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, and in accordance with CEMVR-OD-P appointment order dated 28 March 2000, has signed below.



Wayne Hannel
Project Manager
Regulatory Branch Date September 5, 2000

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

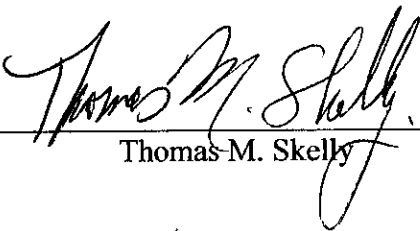
Transferee Date

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON)

AFFIDAVIT

After first being duly sworn and under oath, the undersign, Thomas M. Skelly, states as follows:

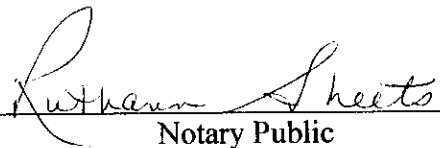
1. I am the Water Division Manager, Office of Public Utilities, City of Springfield, Illinois, and I have served in such capacity since July, 1991.
2. In such capacity, I am responsible for all activities of the Water Division relating to source of supply, water purification and distribution of potable water. I report directly to the General Manager of the Office of Public Utilities. I have primary responsibility for implementation of the City's emergency water supply plan. I also am the Project Manager for Hunter Lake.
3. From November, 1984, until my appointment as Water Division Manager, I served as Supervisor of Water Resources and was responsible for development of certain aspects of the city's emergency water supply plan. In such capacity, I participated in the proceedings in PCB 88-113.
4. I have read the foregoing Amendment to Petition for Variance and based upon my best knowledge and belief, the allegations contained herein are true and accurate.
5. If I were called to testify to the same with regard to the Petition before a hearing of the Illinois Pollution Control Board, my testimony would support the allegations of said Petition.



Thomas M. Skelly

Subscribed and sworn to before me this 25th day of May, 2006.





Notary Public