

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the matter of:)	
)	
PETITION OF ILLINOIS DEPARTMENT OF)	AS 2008-01
TRANSPORTATION, DISTRICT 8, BOWMAN)	(Adjusted Standard)
AVENUE PUMP STATION AND DEEP WELL)	
SYSTEM, FOR AN ADJUSTED STANDARD)	
FROM 35 ILL. ADM. CODE 302.208(g))	
(NODES PERMIT NO. IL007095))	
)	
)	
)	

NOTICE OF FILING

TO: Dorothy Gunn, Clerk
 Illinois Pollution Control Board
 State of Illinois Center
 100 W. Randolph Street, Suite 11-500
 Chicago, Illinois 60601-3218

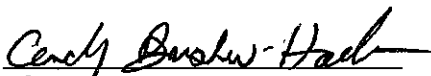
Carol Webb, Hearing Officer
 Illinois Pollution Control Board
 1021 North Grand Avenue East
 P.O. Box 19274
 Springfield, Illinois 62794-9274

Alec Messina, Respondent
 Illinois Environmental Protection Agency
 Division of Legal Counsel
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62784-9276

Kenneth Liss, Interested Party
 Andrews Environmental Engineering
 3300 Ginger Creek Drive
 Springfield, Illinois 62711

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the attached (1) Motion for Leave to File Instanter Motion to Continue to Stay Proceedings and Status Report, (2) Motion to Continue to Stay Proceedings and (3) Status Report, a copy of which is herewith served upon you.

Respectfully submitted,
 ILLINOIS DEPARTMENT OF TRANSPORTATION,
 Petitioner

By: 
 One of Its Attorneys
 Lance T. Jones
 Carrie Zalewski (Solberg)
 Cindy Bushur-Hallam
 Office of Chief Counsel
 2300 South Dirksen Parkway, Room 311
 Springfield, Illinois 62764
 Phone: (217) 782-3215
Lance.Jones@illinois.gov

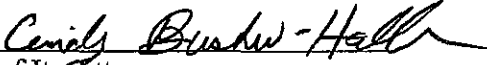
CERTIFICATE OF SERVICE

I, undersigned, certify that on this ____ day of November, 2008, I served electronically the attached (1) MOTION FOR LEAVE TO FILE INSTANTER MOTION TO CONTINUE TO STAY PROCEEDINGS AND STATUS REPORT, (2) MOTION TO CONTINUE TO STAY PROCEEDINGS, and (3) STATUS REPORT, upon the following persons:

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

And electronically and by first class mail, postage affixed, to the persons listed on the NOTICE OF FILING.

Respectfully submitted,
ILLINOIS DEPARTMENT OF TRANSPORTATION,
Petitioner

By: 
One of Its Attorneys
Lance T. Jones
Carrie Zalewski (Solberg)
Cindy Bushur-Hallam
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
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**MOTION FOR LEAVE TO FILE INSTANTER MOTION
TO CONTINUE TO STAY PROCEEDINGS AND STATUS REPORT**

NOW COMES Petitioner, the Illinois Department of Transportation (“Department”) by and through its attorneys, and moves the Illinois Pollution Control Board (“Board”) to grant its request for leave to file *instanter* its Motion to Continue to Stay Proceedings and Status Report states and asserts as follows:

1. On December 20, 2007, the Board granted the Department’s Motion to Stay the Proceedings of the In Matter of: Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments To 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 409.109(b)(2)(B), 406.100(d); Repealer of 30 Ill. Adm. Code 406.203 and Part 407; and Proposed New 35 Ill. Adm. Code 302.208(h), R07-9 (“Triennial Rule”) which satisfies the Department’s petition for adjusted standard for sulfate and total dissolved solids (“TDS”). In the Order, the Board stated that the Stay will terminate “through final Board action in Triennial, at which time the Department must, within 45 days thereafter, file with the Board either a motion to voluntarily dismiss AS 08-1, or notice of the Department’s intent to go forward with the adjusted standard proceeding, accompanied by a status report.”

Electronic Filing - Received, Clerk's Office, November 3, 2008

2. On September 4, 2008, the Board adopted the Triennial Rule and set for forth final notice.

3. The Department inadvertently failed to file with the Board within 45 days of the Board's final action in the Triennial Rule as required by the Board's December 20, 2007 Order.


4. This Motion for Leave to File *instanter* is made in good faith and is not for the purpose of undue delay.

WHEREFORE, the Department requests that the Board grant its request for Leave to File Motion to Continue to Stay Proceedings and Status Report *instanter*.

Respectfully submitted,

**ILLINOIS DEPARTMENT OF
TRANSPORTATION**

By:


One of Its Attorneys

Lance T. Jones
Carrie Zalewski (Solberg)
Cindy Bushur-Hallam
Illinois Department of Transportation, Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
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MOTION TO CONTINUE TO STAY PROCEEDINGS

NOW COMES Petitioner, the Illinois Department of Transportation (“Department”) by and through its attorneys, and requests that the Illinois Pollution Control Board (“Board”) continue to stay the proceedings in this matter, pending the United States Environmental Protection Agency’s (“USEPA’s”) 40 CFR 131.21 review of the Triennial Rule stating as follows:

1. On July 27, 2007, the Department filed a petition for an adjusted standard from the Board’s general use water quality standards for sulfate and total dissolved solids (“TDS”) at 35 Ill. Adm. Code. The Department’s petition for relief concerns discharge from its District 8 Bowman Avenue Pump Station in East St. Louis, St. Clair County. In its petition, the Department proposed adjusted standards of 642 mg/L for sulfate and 1,128 mg/L for TDS.

2. On November 13, 2007, the Department filed a Motion to Stay Proceedings, pending the Board’s decision in Triennial Review of Sulfate and Total Solids Water Quality Standards (“Triennial”) which would satisfy the Department’s adjusted standard proposed for sulfate and TDS.

3. On December 20, 2007, the Board granted the Department’s Motion to Stay, stating the Stay would be terminated “through final Board action in Triennial, at which time the

Department must, within 45 days thereafter, file with the Board either a motion to voluntarily dismiss AS 08-1, or notice of the Department's intent to go forward with the adjusted standard proceeding, accompanied by a status report."

4. On September 4, 2008, the Board adopted the Triennial Rule and directed the Clerk to file with the Secretary of State for publication in the Illinois Register for final adoption. The Triennial Rule, as adopted on September 4, 2008 satisfies the Department's petition for adjusted standard for sulfate and TDS. To the Department's knowledge, the USEPA has not issued a review of the Triennial Rule as required under 40 CFR 131.21.

5. The Department requests that the Board continue to Stay the proceedings pending the USEPA's review of the Triennial Rule.

6. This Motion to Continue to Stay is made in good faith and is not for the purpose of undue delay. A stay of the Department's petition could preserve Board resources and promote judicial economy.

WHEREFORE, the Department requests that the Board stay the proceedings in this matter until such time the USEPA issues a review of the Triennial Rule pursuant to 40 CFR 131.21.

Respectfully submitted,

**ILLINOIS DEPARTMENT OF
TRANSPORTATION**

By: 
One of Its Attorneys

Lance T. Jones
Carrie Zalewski (Solberg)
Cindy Bushur-Hallam
Illinois Department of Transportation, Office of Chief Counsel
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STATUS REPORT

NOW COMES Petitioner, the Illinois Department of Transportation (“Department”) by and through its attorney, and submits this Status Report in this matter.

On July 27, 2007, the Department filed a Petition for Adjusted Standard requesting relief from the Board’s general use water quality standards for sulfate and total dissolved solids (TDS) at 35 IL. Adm. Code 302.208(g).

On September 20, 2007, the Board issued an Order adopting the first-notice proposal in the Triennial Rule (R 07-09).

On November 13, 2007, the Department filed a Motion to Stay the Proceedings pending the decision in the Triennial Rule.

On December 20, 2007, the Board granted the Department’s Motion to Stay, stating the Stay would be “terminated through final Board action in Triennial, at which time the Department must, within 45 days thereafter, file with the Board either a motion to voluntarily dismiss AS 08-1, or notice of the Department’s intent to go forward with the adjusted standard proceeding, accompanied by a status report.”

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On May 1, 2008, the Board issued an order proposing a second-notice opinion proposal in the Triennial Rule.

On June 19, 2008 the Board adopted proposed amendments for second notice for the Triennial Rule. The amended Triennial Rule still satisfies the Department's petition for adjusted standards for sulfate and TDS.

On September 4, 2008, the Board adopted the amendments for the Triennial Rule and filed with Secretary of State for publication in Illinois Register for final adoption.

As discussed in the Department's Motion to Continue the Stay, the Triennial Rule, as adopted on September 4, 2008 satisfies the Department's petition for adjusted standard for sulfate and TDS and therefore becomes moot if approved by the USEPA.

WHEREFORE, the Department requests that the Board stay the proceedings in this matter until such time the USEPA issues a review of the Triennial Rule pursuant to 40 CFR 131.21.

Respectfully submitted,

**ILLINOIS DEPARTMENT OF
TRANSPORTATION**

By:

Cindy Bushur-Hallam
One of Its Attorneys

Lance T. Jones
Carrie Zalewski (Solberg)
Cindy Bushur-Hallam
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