

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS)
ex rel. LISA MADIGAN, Attorney General)
of the State of Illinois)
) PCB 2008-007
Complainant,)
)
vs.) **VIA ELECTRONIC FILING**
)
UNION PACIFIC RAILROAD COMPANY,)
a Delaware corporation,)
)
Respondent.)

NOTICE OF FILING

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

Zemeheret Bereket-Ab
Assistant Attorney General
Environmental Bureau North
69 West Washington Street, Suite 1800
Chicago, IL 60602

Bradley P. Halloran
Hearing Officer
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

W. Lee Hammond
Union Pacific Railroad Company
1400 Douglas Street, Stop 1080
Omaha, NE 68179

Please take notice that today, September 29, 2009, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing Union Pacific Railroad Company's Motion for Reconsideration, along with Notice of Filing and Certificate of Service, a copy of which is attached hereto and served upon you.

Respectfully submitted,

SONNENSCHN NATH & ROSENTHAL LLP

By: /s/ Thomas A. Andreoli
Attorneys for Respondent
Union Pacific Railroad Company

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CERTIFICATE OF SERVICE

I, Thomas A. Andreoli, an attorney, hereby certify that I caused a copy of Union Pacific Railroad Company's Motion for Reconsideration, along with Notice of Filing and Certificate of Service, to be served upon the service list on September 29, 2009, by regular mail.

/s/ Thomas A. Andreoli

Thomas A. Andreoli

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**UNION PACIFIC RAILROAD COMPANY’S
MOTION FOR RECONSIDERATION**

Union Pacific Railroad Company (“Union Pacific”) hereby respectfully moves the Illinois Pollution Control Board (the “Board”), pursuant to 35 Ill. Admin. Code §§ 101.520 and 101.902, to reconsider its August 20, 2009 Order (“Order”) in this proceeding denying Union Pacific’s Motion to Sever. The Board’s Order was in error and should be reversed for three reasons: *First*, the Board based its ruling upon material factual errors, including the incorrect finding that the two alleged releases addressed in the Complaint involved “the same NPDES permit and the same facility.” Order at 7. This finding is directly contrary to the evidence. *Second*, the Board erred in relying upon improper hearsay evidence offered by the State in opposition to the Motion to Sever. Order at 6-7. *Third*, the Board’s conclusion that no material prejudice to Union Pacific would result from the Complaint’s consolidation of claims was in error. In support of this Motion, Union Pacific states as follows:

Legal Standard

A motion for reconsideration serves the purpose of bringing to a court’s, or an administrative agency’s, attention “newly discovered evidence, changes in the law, or errors in

the court's previous application of existing law." *See Itasca Bank and Trust Co. v. Thorleif Larsen and Son, Inc.*, 352 Ill. App. 3d 262, 265, 815 N.E.2d 1259, 1261 (2d Dist. 2004); *see also Farmers Auto. Ins. Ass'n v. Universal Underwriters Ins. Co.*, 348 Ill. App. 3d 418, 422, 810 N.E.2d 562, 566 (1st Dist. 2004). In ruling on a motion for reconsideration, the Board will consider factors including new evidence, or a change in the law, to conclude that the Board's decision was in error. 35 Ill. Admin. Code § 101.902.

Argument

A. The Board Based Its Ruling Upon Material Factual Errors

The Board erroneously found that the two releases alleged in the Complaint involved "violations of the *same* NPDES permit at the *same* facility." Order at 7 (emphasis provided). In fact, the evidence shows that the alleged releases in November 2005 and February 2006 took place on different properties which were governed by separate NPDES permits until at least February 14, 2006.

Specifically, the Order erred in its finding that the Global II intermodal facility and the Proviso Yard were governed by "the same NPDES permit" at the time of the alleged November 2005 and February 2006 releases. Order at 6-7. They indisputably were not. Prior to February 14, 2006, Union Pacific had a General NPDES Stormwater Permit (No. ILR003013) for Global II. During this time period—which included the alleged November 2005 release—Union Pacific had a different NPDES Permit (No. IL0002127) for the Proviso Yard. The Proviso Yard permit (No. IL0002127) covered the discharge to Mud Creek.

In January 2006, Union Pacific requested that the Illinois Environmental Protection Agency (the "IEPA") cancel both permits and issue a new general NPDES permit for the two properties as part of the an ongoing voluntary improvements program by the railroad to address stormwater originating at the Proviso Yard, certain parts of Global II, and offsite sources west of

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the two properties. On February 14, 2006, the IEPA canceled the General NPDES Stormwater Permit (No. ILR003013) for Global II. On March 10, 2006, the IEPA declined to terminate NPDES Permit (No. IL0002127) and stated that this permit would remain in effect for the Proviso Yard and also apply to Global II. In that notice, the IEPA specifically identified Global II and the Proviso Yard as separate “facilities.”

For the Board’s review, Union Pacific has attached to this verified Motion for Reconsideration true and correct copies of the following, which were received by Union Pacific from IEPA on or about the referenced dates:

- NPDES Permit No. IL0002127 (issued Aug. 14, 1996) (Ex. A);
- General NPDES Stormwater Permit No. ILR003013 (issued May 30, 2003) (Ex. B);
- NPDES Permit No. IL0002127 (reissued Jan. 24, 2006) (Ex. C);
- the IEPA’s termination notice for General NPDES Stormwater Permit No. ILR003013 (dated Feb. 14, 2006) (Ex. D); and
- the IEPA’s notice declining to terminate NPDES Permit No. IL0002127 (dated Mar. 10, 2006) (Ex. E).

The Order’s finding that Global II and the Proviso Yard are “the same facility” similarly is contrary to the evidence. Order at 6-7. In its verified Motion to Sever, Union Pacific established that the Global II and the Proviso Yard are not the same property. Mot. to Sever and Mem. of Law at ¶¶ 1-9; Reply in Support of Mot. to Sever at 3-5. The verified statements contained in Union Pacific’s filings on this point are unambiguous. *See, e.g.*, Mem. of Law. at ¶ 1 (“Union Pacific owns and operates *two separate properties* that are subject to the Complaint.”) (emphasis provided). The Order’s finding on this point was not only in error; it was simply wrong. As Union Pacific noted, even the State treats the two properties as separate facilities. *See* Reply in Support of Mot. to Sever at 4-5 (providing verified facts distinguishing

the two properties). In a further example, the State maintains separate generator ID numbers for Global II (No. 0314710007) and the Proviso Yard (No. 0311865222).

The Order's reliance on the State's unverified and misleading assertions, including a hearsay document (discussed at Argument, § B. below), to find that Global II and the Proviso Yard are "the same facility" was patent error. *See* Order at 6-7. Union Pacific properly verified its motion and provided verified facts distinguishing the two properties. Union Pacific was entitled to rely upon the evidentiary protections of Section 101.504 of the Board's General Rules, 83 Ill. Adm. Code § 504, against the State's unsupported and incorrect assertions regarding these separate properties.

B. The Board Erred In Admitting And Relying Upon Unreliable Hearsay

The Board further erred when it relied on a hearsay document attached to the State's Response in Opposition to the Motion to Sever. Specifically, the Board determined to consider a document in the form of a June 6, 2006 letter on Union Pacific letterhead to the IEPA (State Resp. in Opp'n to Mot. to Sever, Ex. A), as a "business record," and then relied upon this document in denying the Motion to Sever. The State neither verified its Response in Opposition to the Motion to Sever nor laid any foundation for the attached hearsay document.

In its Order, the Board asserted that it would "consider the letter in its deliberation as a business record kept in the ordinary course of business by the agency." Order at 6. This is an incorrect application of the business records exception to the hearsay rule. The June 6, 2006 letter attached to the State's responsive filing is *not* a business record of the IEPA. Moreover, even it were (and it is not), the State has laid no foundation for its use to prove that Global II and the Proviso Yard are "the same facility." Resp. in Opp'n to Mot to Sever at 3.

The admission of business records requires a proper foundation. The record must "have been made in the regular course of business, provided it was the regular course of business to

make the memorandum or record at the time of the act, transaction, occurrence, or event, or within a reasonable time thereafter.” 35 Ill. Adm. Code § 101.626(e). The State has established no foundation for the use of the June 6, 2009 document for any purpose. Moreover, it is unlikely the State ever could meet the foundational requirements for the truth of any matters asserted in the letter as an IEPA business record. The Illinois courts typically reject attempts to use the business records exception to admit hearsay documents not created by their proponent because the proponent usually cannot establish a proper foundation. *Apa v. Nat'l Bank of Commerce*, 374 Ill. App. 3d 1082, 1087, 872 N.E.2d 490, 494 (1st Dist. 2007) (collecting cases).

The Order asserts that Union Pacific “does not specify any manner in which the proffered document is deficient or untrustworthy.” Order at 6. But that allowance for the State’s improper use of hearsay, and the Order’s improper reliance on it, misses the point. The harm in this “evidence” is manifest in the Order’s misunderstanding of the June 26, 2006 letter. Contrary to the State’s self-serving and inaccurate characterization, the letter does not stand for the proposition that Global II and the Proviso Yard are “located on the same parcel of land, just in different locations on the parcel.” *See* Resp. in Opp’n to Mot. to Sever at 2. The Board’s use of and reliance on the hearsay document to establish this “fact” is error.

C. The Board’s Conclusion That No Material Prejudice Would Result From The State’s Consolidation of Claims Was In Error

Finally, the Order concludes that “the same theory of liability applies to both of the People’s claims.” Order at 6. The Order adds that “the Board is well able to avoid carrying ‘any impermissible negative influence’ (sic) over from its determinations concerning one count to another.” Order at 7. This conclusion does not address the grave error and material prejudice to Union Pacific inherent in the State’s determination to consolidate claims arising from two

separate and unrelated releases into a single action in order to obtain an impermissible *inference* of liability against Union Pacific.

The pertinent case law relating to each of the State's claims was first identified in Union Pacific's Motion to Sever. Causation is an essential element of the State's claims. As the State concedes, the Act is *not* a strict liability statute. *People v. A.J. Davinroy Contractors*, 249 Ill. App. 3d 788, 793, 618 N.E.2d 1282, 1286 (5th Dist. 1993); *Perkinson v. Ill. Pollution Control Bd.*, 187 Ill. App. 3d 689, 693, 543 N.E.2d 901, 903 (3d Dist. 1989); *Phillips Petroleum Co. v. Ill. Env'tl. Prot. Agency*, 72 Ill. App. 3d 217, 220, 390 N.E.2d 620, 623 (2d Dist. 1979). Liability may not be imposed regardless of fault. *See, e.g., PMC, Inc. v. Sherwin-Williams Co.*, 1993 WL 259442, at *2 (N.D. Ill. July 7, 1993) (noting that the Act is "a fault-based statute").

To analyze causation, the Illinois courts have developed a two-part test, which is consistent with the Act's purpose to ensure that polluters pay for pollution for which they actually bear responsibility. As formulated by the Illinois Appellate Court:

[T]he owner [or operator] of the source of the pollution causes or allows the pollution within the meaning of the statute and is responsible for that pollution *unless the facts establish the owner [or operator] either lacked the capability to control the source ... or had undertaken extensive precautions to prevent vandalism or other intervening causes*

Perkinson, 187 Ill. App. 3d at 694-95, 543 N.E.2d at 904 (emphasis provided). Each of the seminal cases (*Phillips*, *Perkinson*, and *Davinroy*) contains a detailed factual analysis of whether the defendant acted or failed to act in such a manner under the specific circumstances that a finding of liability for the alleged pollution was justified.

The State must prove each of the violations alleged in the Complaint, and Union Pacific should have the opportunity to defend each alleged violation on its own merits. But that is not what the State intends. As stated bluntly in its Response in Opposition to the Motion to Sever,

the State in this proceeding is asking the Board to return a finding of liability as to both the alleged November 2005 and February 2006 releases and to impose civil penalties against Union Pacific based upon a “pattern of violations.” Specifically, the State asserts: “Absolutely no harm would come to [Union Pacific] by trying this case in a single matter. If any prejudice would come, it would be to the State if the Board allowed the matters to be severed and *the Board would be precluded from considering the pattern of violations at this facility . . .*” Resp. in Opp’n to Mot. to Sever at 3 (emphasis provided).

The Order concludes that the State’s approach poses no prejudice to Union Pacific, because “both allegations stem from the discharge of contaminants into Mud Creek via [Union Pacific’s] oil/water separator, which is governed by the same NPDES permit.” Order at 6. As shown above, this statement is contrary to the evidence. Global II and the Proviso Yard were *not* under the same NPDES permit at the time of the alleged November 2005 release. Moreover, the “rail yard” was not the “source of the pollution” in both instances, despite the State’s inaccurate and unsupported assertions to the contrary. *See* Resp. in Opp’n to Mot. to Sever at 5. The Order errs by denying severance based upon the supposed factual “connection” between the State’s claims. *See* Order at 7.

The Order further errs by allowing the State to proceed based upon an “other bad acts” theory of the case. The Order states that “the Board is well able to avoid carrying ‘any impermissible negative influence’ (sic) over from its determinations concerning one count or another.” Order at 7. But this statement misapprehends the unavoidable prejudice in the State’s approach. The State has *not* filed separate counts as to the alleged November 2005 and February 2006 releases. Instead, the Complaint consolidates the State’s claims arising from these causally unrelated alleges into four combined counts. This approach is impermissible because it denies

Union Pacific the chance to obtain a fair and objective finding on liability as to each of the alleged releases and renders an objective determination on damages impossible. Severance is not only the appropriate procedural remedy, it is essential.

Conclusion

WHEREFORE, for these reasons, Union Pacific Railroad Company respectfully requests that the Illinois Pollution Control Board grant its Motion for Reconsideration.

Dated: September 29, 2009

Respectfully submitted,

SONNENSCHN NATH & ROSENTHAL LLP

By: /s/ Thomas A. Andreoli
Attorney for Respondent
Union Pacific Railroad Company

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Chicago, Illinois 60606
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VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

A handwritten signature in cursive script, appearing to read "Rami Hanash", written over a horizontal line.

Rami Hanash

Regional Environmental Counsel
Union Pacific

NPDES Permit No. IL0002127

Illinois Environmental Protection Agency

Division of Water Pollution Control

2200 Churchill Road

P.O. Box 19276

Springfield, Illinois 62794-9276

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Reissued (NPDES) Permit

Expiration Date: August 31, 2001

Issue Date: August 14, 1996

Effective Date: September 1, 1996

Name and Address of Permittee:

Union Pacific Railroad
301 West Lake Street
North Lake, Illinois 60164

Facility Name and Address:

Union Pacific Railroad
4800 Lake Street
Melrose Park, Illinois 60160
Cook County

Discharge Number and Name:

01 Stormwater Runoff

Receiving Waters:

Mud Creek tributary to Addison Creek

In compliance with the provisions of the Illinois Environmental Protection Act, Subtitle C and/or Subtitle D Rules and Regulations of the Illinois Pollution Control Board, and the Clean Water Act, the above-named permittee is hereby authorized to discharge at the above location to the above-named receiving stream in accordance with the standard conditions and attachments herein.

Permittee is not authorized to discharge after the above expiration date. In order to receive authorization to discharge beyond the expiration date, the permittee shall submit the proper application as required by the Illinois Environmental Protection Agency (IEPA) not later than 180 days prior to the expiration date.

Thomas G. McSwiggin, P.E.
Manager, Permit Section
Division of Water Pollution Control

TGM:BK\95102601.PSJ

NPDES Permit No. IL0002127

Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS lbs/day DAF (DMF)		CONCENTRATION LIMITS mg/l		SAMPLE FREQUENCY	SAMPLE TYPE
	30 DAY AVG.	DAILY MAX.	30 DAY AVG.	DAILY MAX.		
1. From the effective date of this permit until the expiration date of the permit, the effluent of the following discharge(s) shall be monitored and limited at all times as follows:						
Outfall(s): 001						
Flow					Measure When Monitoring	
pH	See Special Condition No. 1					
Oil and Grease			15	30	Quarterly	Grab
BOD ₅					Quarterly	Grab
TSS					Quarterly	Grab
Benzene					Quarterly	Grab
Toluene					Quarterly	Grab
Ethylbenzene					Quarterly	Grab
Xylenes (Total)					Quarterly	Grab

NPDES Permit No. IL0002127

Special Conditions

SPECIAL CONDITION 1. The pH shall be in the range 6.0 to 9.0.

SPECIAL CONDITION 2. For the purpose of this permit, this discharge is limited to storm water, free from process and other wastewater discharges.

SPECIAL CONDITION 3. Samples taken in compliance with the effluent monitoring requirements shall be taken at a point representative of the discharge, but prior to entry into the receiving stream.

SPECIAL CONDITION 4. The permittee shall record monitoring results on Discharge Monitoring Report forms using one such form for each quarterly discharge. The completed Discharge Monitoring Report form shall be submitted to IEPA, no later than 30 days following the monitored discharge, unless otherwise specified by the Agency, to the following address:

Illinois Environmental Protection Agency
Bureau of Water
Compliance Assurance Section
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

SPECIAL CONDITION 5. The Agency may modify the permit, subject to monitoring results for Benzene, Toluene, Ethylbenzene, and Xylene (Total), to include effluent limits and/or additional monitoring requirements. Public Notice of such modification and opportunity for public hearing shall be provided.

SPECIAL CONDITION 6. The Agency has determined that the effluent limitations in this permit constitute BAT/BCT for storm water which is treated in the existing treatment facilities for purposes of this permit reissuance, and no pollution prevention plan will be required for such storm water. In addition to the chemical specific monitoring required elsewhere in this permit, the permittee shall conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity, and determine whether any facility modifications have occurred which result in previously-treated storm water discharges no longer receiving treatment. If any such discharges are identified the permittee shall request a modification of this permit within 30 days after the inspection. Records of the annual inspection shall be retained by the permittee for the term of this permit and be made available to the Agency on request.

SPECIAL CONDITION 7. If an applicable effluent standard or limitation is promulgated under Sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the NPDES Permit, the Agency shall revise or modify the permit in accordance with the more stringent standard or prohibition and shall so notify the permittee.

ATTACHMENT H

Standard Conditions

Definitions

Act means the Illinois Environmental Protection Act, Ch. 111 1/2 Ill. Riv. Stat., Sec. 1001 1052 as Amended.

Agency means the Illinois Environmental Protection Agency.

Board means the Illinois Pollution Control Board.

Clean Water Act (formerly referred to as the Federal Water Pollution Control Act) means Pub. L. 92-500, as amended 33 U.S.C. 1251 et seq.

NPDES (National Pollutant Discharge Elimination System) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and enforcing and enforcing pretreatment requirements, under Sections 307, 402, 318 and 405 of the Clean Water Act.

USEPA means the United States Environmental Protection Agency.

Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Maximum Daily Discharge Limitation (daily maximum) means the highest allowable daily discharge.

Average Monthly Discharge Limitation (30 day average) means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Average Weekly Discharge Limitation (7 day average) means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Aliquot means a sample of specified volume used to make up a total composite sample.

Grab Sample means an individual sample of at least 100 milliliters collected at a randomly-selected time over a period not exceeding 15 minutes.

24 Hour Composite Sample means a combination of at least 8 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over a 24-hour period.

8 Hour Composite Sample means a combination of at least 3 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over an 8-hour period.

Flow Proportional Composite Sample means a combination of sample aliquots of at least 100 milliliters collected at periodic intervals such that either the time interval between each aliquot or the volume of each aliquot is proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot.

- (1) **Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or for denial of a permit renewal application. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (2) **Duty to reapply.** If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. If the permittee submits a proper application as required by the Agency no later than 180 days prior to the expiration date, this permit shall continue in full force and effect until the final Agency decision on the application has been made.
- (3) **Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- (4) **Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- (5) **Proper operation and maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up, or auxiliary facilities, or similar systems only when necessary to achieve compliance with the conditions of the permit.
- (6) **Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause by the Agency pursuant to 40 CFR 122.62. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- (7) **Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.
- (8) **Duty to provide information.** The permittee shall furnish to the Agency within a reasonable time, any information which the Agency may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with the permit. The permittee shall also furnish to the Agency, upon request, copies of records required to be kept by this permit.
- (9) **Inspection and entry.** The permittee shall allow an authorized representative of the Agency, upon the presentation of credentials and other documents as may be required by law, to
 - (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
 - (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
 - (d) Sample or monitor at reasonable times, for the purpose of assuring permit compliance, or as otherwise authorized by the Act, any substances or parameters at any location.
- (10) **Monitoring and records.**
 - (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
 - (b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records, and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of this permit, measurement, report or application. This period may be extended by request of the Agency at any time.
 - (c) Records of monitoring information shall include:
 - (1) The date, exact place, and time of sampling or measurements;
 - (2) The individual(s) who performed the sampling or measurements;
 - (3) The date(s) analyses were performed;
 - (4) The individual(s) who performed the analyses;
 - (5) The analytical techniques or methods used; and
 - (6) The results of such analyses.
 - (d) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Where no test procedure under 40 CFR Part 136 has been approved, the permittee must submit to the Agency a test method for approval. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to ensure accuracy of measurements.
- (11) **Signatory requirement.** All applications, reports or information submitted to the Agency shall be signed and certified.
 - (a) **Application.** All permit applications shall be signed as follows:
 - (1) For a corporation: by a principal executive officer of at least the level of vice president or a person or position having overall responsibility for environmental matters for the corporation;
 - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
 - (b) **Reports.** All reports required by permits, or other information requested by the Agency shall be signed by a person described in paragraph (a) or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - (1) The authorization is made in writing by a person described in paragraph (a), and
 - (2) The authorization specifies either an individual or a position responsible for the overall operation of the facility, from which the discharge originates, such as a plant manager, superintendent or person of equivalent responsibility; and
 - (3) The written authorization is submitted to the Agency.

(c) Changes of Authorization. If an individual under (b) is no longer accurate because a different individual has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.

(12) Maximum concentrations for: (200 ug/l) 200 ug/l for acrylonitrile; 700 ug/l for dinitro- and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

- (3) Five (5) times the maximum concentration value reported for that pollutant in the NPDES permit application, or
- (4) The level established by the Agency in this permit

(12) Reporting requirements.

- (a) **Planned changes.** The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility
- (b) **Anticipated noncompliance.** The permittee shall give advance notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) **Compliance schedules.** Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (d) **Monitoring reports.** Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(b) That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the NPDES permit application.

(15) All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Agency of the following:

- (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR).
- (2) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
- (3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Agency in the permit.

- (a) Any new introduction of pollutants into that POTW from an indirect discharge which would be subject to Sections 301 or 308 of the Clean Water Act if it were directly discharging those pollutants; and
- (b) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- (c) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW

(e) **Twenty-four hour reporting.** The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The following shall be included as information which must be reported within 24 hours:

(16) If the permit is issued to a publicly owned or publicly regulated treatment works, the permittee shall require any industrial user of such treatment works to comply with federal requirements concerning:

- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
- (2) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Agency in the permit to be reported within 24 hours;

- (1) User charges pursuant to Section 204(b) of the Clean Water Act, and applicable regulations appearing in 40 CFR 35.
- (2) Toxic pollutant effluent standards and pretreatment standards pursuant to Section 307 of the Clean Water Act, and
- (3) Inspection, monitoring and entry pursuant to Section 308 of the Clean Water Act

The Agency may waive the written report on a case-by case basis if the oral report has been received within 24 hours.

(f) **Other noncompliance.** The permittee shall report all instances of noncompliance not reported under paragraphs (12)(c), (d), or (e), at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (12)(e).

(17) If an applicable standard or limitation is promulgated under Section 301(b)(2)(C) and (D), 304(b)(2), or 307(a)(2) and that effluent standard or limitation is more stringent than any effluent limitation in the permit, or controls a pollutant not limited in the permit, the permit shall be promptly modified or revoked, and reassued to conform to that effluent standard or limitation

(g) **Other information.** Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the Agency, it shall promptly submit such facts or information

(18) Any authorization to construct issued to the permittee pursuant to 35 W. Adm. Code 309.154 is hereby incorporated by reference as a condition of this permit

(19) The permittee shall not make any false statement, representation or certification in any application, record, report, plan or other document submitted to the Agency or the USEPA, or required to be maintained under this permit

(13) **Transfer of permits.** A permit may be automatically transferred to a new permittee if:

- (a) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date;
- (b) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees; and
- (c) The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement.

(20) The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500, nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both.

(21) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both

(22) The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit shall, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both

(14) All manufacturing, commercial, mining, and silvicultural dischargers must notify the Agency as soon as they know or have reason to believe:

(a) That any activity has occurred or will occur which would result in the discharge of any toxic pollutant identified under Section 307 of the Clean Water Act which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:

(23) Collected screening, slurries, sludges, and other solids shall be disposed of in such a manner as to prevent entry of those wastes for runoff from the wastes into waters of the State. The proper authorization for such disposal shall be obtained from the Agency and is incorporated as part hereof by reference.

(24) In case of conflict between these standard conditions and any other condition(s) included in this permit, the other condition(s) shall govern

(25) The permittee shall comply with, in addition to the requirements of the permit, all applicable provisions of 35 W. Adm. Code, Subtitle C, Subtitle D, Subtitle E, and all applicable orders of the Board.

(26) The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit is held invalid, the remaining provisions of this permit shall continue in full force and effect.

- (1) One hundred micrograms per liter (100 ug/l);

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Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
www.epa.state.il.us

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

**General NPDES Permit
For
Storm Water Discharges from Industrial Activities**

Expiration Date:	May 31, 2008	Issue Date:	May 30, 2003
		Effective Date:	June 1, 2003

Discharges authorized by this General Permit: In compliance with the provisions of the Illinois Environmental Protection Act, the Illinois Pollution Control Board Rules and Regulations (35 Ill. Adm. Code, Subtitle C, Chapter 1) and the Clean Water Act, the following discharges may be authorized by this permit in accordance with the conditions herein:

Discharges of storm water associated with industrial activity, as defined and limited herein. Storm water means storm water runoff, snow melt runoff, and surface runoff and drainage.

This general permit regulates only storm water discharges from a facility. Other discharges such as process wastewater or cooling water shall be regulated by other NPDES permits.

Receiving waters: Discharges may be authorized to any surface water of the State.

To receive authorization to discharge under this general permit, a facility operator must either submit an application as described in the permit conditions to the Illinois Environmental Protection Agency or have a valid Illinois General NPDES Permit for industrial storm water. Authorization, if granted, will be by letter and include a copy of this permit.

Permit signed May 30, 2003

Toby Frevert, P.E.
Manager
Division of Water Pollution Control

CONTENTS OF THIS GENERAL PERMIT

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A. APPLICABILITY OF THIS GENERAL PERMIT

This permit is applicable to storm water discharges associated with industrial activity from areas (except access roads and rail lines) where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water in the state of Illinois from the facilities listed below.

1. Discharges of storm water from facilities whose process wastewater discharges are subject to new source performance standards or toxic pollutant effluent standards under 40 CFR Subchapter N, except:
 - a. discharges subject to new source performance standards or toxic pollutant effluent standards and described in paragraph A.8. below which do not have materials or activities exposed to storm water;
 - b. discharges subject to storm water effluent limitations guidelines listed in B.1. of this permit.
2. Discharges from facilities in the following SIC codes:

SIC 20	(Food and kindred products manufacturing or processing)
SIC 21	(Tobacco products)
SIC 22	(Textile mill products)
SIC 23	(Apparel and other finished products made from fabrics and similar materials)
SIC 24	(Lumber and wood products except furniture)
SIC 2434	(Wood kitchen cabinets)
SIC 25	(Furniture and fixtures)
SIC 26	(Paper and allied products)
SIC 265	(Paperboard containers and boxes)
SIC 267	(Converted paper and paperboard products)
SIC 27	(Printing, publishing, and allied industries)
SIC 28	(Chemicals and allied products)
SIC 283	(Drugs)
SIC 285	(Paints, varnishes, lacquers, enamels, and allied products)
SIC 29	(Petroleum refining and related industries), except discharges subject to 40 CFR 419
SIC 30	(Rubber and miscellaneous plastics products)
SIC 31	(Leather and leather products)
SIC 311	(Leather tanning and finishing)
SIC 32	(Stone, clay, glass, and concrete products)
SIC 323	(Glass products, made of purchased glass)
SIC 33	(Primary metal industries)
SIC 34	(Fabricated metal products, except machinery and transportation equipment)
SIC 3441	(Fabricated structural metal)
SIC 35	(Industrial and commercial machinery and computer equipment)
SIC 36	(Electronic and other electrical equipment and components, except computer equipment)
SIC 37	(Transportation equipment)
SIC 373	(Ship and boat building and repairing)
SIC 38	(Measuring, analyzing, and controlling instruments; photographic, medical, and optical goods; watches and clocks)
SIC 39	(Miscellaneous manufacturing industries)
SIC 4221-25	(Farm products warehousing and storage, refrigerated warehousing and storage, general warehousing and storage)

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C. SPECIAL CONDITIONS

1. Prohibition on non-storm water discharges
 - a. Except as provided in C. 1. b. below, all discharges covered by this permit shall be composed entirely of storm water.
 - b.
 - i. Except as provided in C. 1 .b. ii. below, discharges of material other than storm water must be in compliance with an NPDES permit (other than this permit) issued for the discharge.
 - ii. The following non-storm water discharges may be authorized by this permit provided the non-storm water component of the discharges is in compliance with paragraph E.7. of this permit: discharges from fire fighting activities; fire hydrant flushings; waters used to wash vehicles without the use of detergents; waters used to control dust; potable water sources including waterline flushings; irrigation drainage; lawn watering; routine external building washdown which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.
2. Provisions for handling storm water from bulk storage and hazardous waste containment areas
 - a. This permit does not authorize the discharge of storm water collected in containment areas at bulk storage and hazardous waste facilities where the storm water becomes contaminated by direct contact with a spill or release of stored materials into the containment area. Such storm water should be handled properly by on-site treatment or hauling off-site for treatment and disposal.
 - b. Where a spill or release to a dry containment area occurs, the permittee shall institute procedures to clean up the spill in order to prevent contamination of any storm water, which subsequently collects in the containment area. Where these procedures are followed, collected storm water may be discharged; following visual inspection to assure that the storm water contains no unnatural turbidity, color, oil films, foams, settleable solids, or deposits.
 - b. If you have storage piles of salt used for deicing or other commercial or industrial purposes, they must be enclosed or covered to prevent exposure to precipitation (except for exposure resulting from adding or removing materials from the pile). Piles do not need to be enclosed or covered where storm water from the pile is not discharged to waters of the state or the discharges from the piles are authorized under another permit.
3. Discharging pollutants for which a water body is impaired with an approved TMDL
 - a. For existing dischargers, new dischargers and new sources: you must carefully document the justifications for all BMP selections in your SWPPP, and install, implement and maintain BMPs that are consistent with all relevant TMDL allocations and with all relevant conditions in an implementation plan.
4. Discharges covered by this permit, alone or in combination with other sources, shall not cause or contribute to a violation of any applicable water quality standard.

D. APPLICATION REQUIREMENTS

1. Dischargers that are covered by a valid Illinois General NPDES Permit for industrial storm water as of May 31, 2003 are automatically covered by this permit unless they request otherwise prior to the effective date of this permit. Other dischargers seeking coverage under this general permit shall provide the Illinois Environmental Protection Agency (IEPA) with the following information:
 - a. A completed IEPA Notice of Intent form, accompanied by quantitative sampling data for the storm water discharge(s) if available; or
 - b. A completed U.S. EPA Form 1, including Form 2F and quantitative sampling data if available; or
 - c. A completed U.S. EPA Notice of Intent form, accompanied by quantitative sampling data for the storm water discharge(s) if available.
3. Quantitative sampling data as required by U.S. EPA Form 2F for storm water discharges from the following existing facilities is required to be submitted, unless the facility is a participant in a group application accepted by U.S. EPA.
 - a. Facilities subject to reporting requirements under Section 313 of EPCRA for chemicals classified as [Section 313 water priority chemicals]: Storm water discharges that come into contact with any equipment, tank, container, or other vessel or area used for storage of a Section 313 water priority chemical, or located at a truck or rail car unloading area where a Section 313 water priority chemical is handled.
 - b. Facilities classified as SIC 33 (Primary Metal Industries).

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9. Permittees who wish to continue to discharge after the expiration date of this permit shall submit a Notice of Intent to the Agency not less than 180 days prior to the expiration date.

E. STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

1. A storm water pollution prevention plan shall be developed by the permittee for each facility covered by this permit. The plan shall identify potential sources of pollution which may be expected to affect the quality of storm water discharges associated with the industrial activity at the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit.

- a. Waters not classified as Impaired pursuant to Section 303(d) of the Clean Water Act

Unless otherwise specified by federal regulation, the storm water pollution prevention plan shall be designed for a storm event equal to or greater than a 25-year 24-hour rainfall event.

- b. Waters classified as Impaired pursuant to Section 303(d) of the Clean Water Act

For any site which discharges directly to an impaired water identified in the Agency's 303(d) listing, and if any parameter in the subject discharge has been identified as the cause of impairment, the storm water pollution prevention plan shall be designed for a storm event equal to or greater than a 25-year 24-hour rainfall event. If required by federal regulations, the storm water pollution prevention plan shall adhere to a more restrictive design criteria.

2. The plan shall be completed within 180 days of notification by the Agency of coverage by this permit or in the case of new facilities, prior to submitting an NOI to be covered under this permit. Plans shall provide for compliance with the terms of the plan within 365 days of notification by the Agency of coverage by this permit, or in the case of new facilities, prior to submitting an NOI to be covered under this permit. [Note: If the plan has already been required to be developed under a previous permit it shall be maintained in accordance with all requirements of this special condition.]. The owner or operator of a facility with storm water discharges covered by this permit shall make a copy of the plan available to the Agency at any reasonable time upon request.

Facilities which discharge to a municipal separate storm sewer system shall also make a copy available to the operator of the municipal system at any reasonable time upon request.

3. The permittee may be notified by the Agency at any time that the plan does not meet the requirements of this permit. After such notification, the permittee shall make changes to the plan and shall submit a written certification that the requested changes have been made. Unless otherwise provided, the permittee shall have 30 days after such notification to make the changes.
4. The discharger shall amend the plan whenever there is a change in construction, operation, or maintenance which may affect the discharge of significant quantities of pollutants to the waters of the State or if a facility inspection required by paragraph E.8. of this permit indicates that an amendment is needed. The plan should also be amended if the discharger is in violation of any conditions of this permit, or has not achieved the general objectives of controlling pollutants in storm water discharges. Amendments to the plan shall be made within the shortest reasonable period of time, and shall be provided to the Agency for review upon request.
5. The plan shall provide a description of potential sources which may be expected to add significant quantities of pollutants to storm water discharges, or which may result in non-storm water discharges from the facility. The plan shall include, at a minimum, the following items:
- a. A topographic map extending one-quarter mile beyond the property boundaries of the facility, showing: the facility, surface water bodies, wells (including injection wells), seepage pits, infiltration ponds, and the discharge points where the facility's storm water discharges to a municipal storm drain system or other water body. The requirements of this paragraph may be included on the site map if appropriate.
- b. A site map showing:
- i. The storm water conveyance and discharge structures;
 - ii. An outline of the storm water drainage areas for each storm water discharge point;
 - iii. Paved areas and buildings;
 - iv. Areas used for outdoor manufacturing, storage, or disposal of significant materials, including activities that generate significant quantities of dust or particulates.
 - v. Location of existing storm water structural control measures (dikes, coverings, detention facilities, etc.);

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- v. Storm Water Diversion - Storm water diversion away from materials manufacturing, storage and other areas of potential storm water contamination;
 - vi. Covered Storage or Manufacturing Areas - Covered fueling operations, materials manufacturing and storage areas to prevent contact with storm water.
 - f. Sediment and Erosion Prevention - The plan shall identify areas which due to topography, activities, or other factors, have a high potential for significant soil erosion. The plan shall describe measures to limit erosion.
 - g. Employee Training - Employee training programs shall inform personnel at all levels of responsibility of the components and goals of the storm water pollution control plan. Training should address topics such as spill response, good housekeeping and material management practices. The plan shall identify periodic dates for such training.
 - h. Inspection Procedures - Qualified plant personnel shall be identified to inspect designated equipment and plant areas. A tracking or follow-up procedure shall be used to ensure appropriate response has been taken in response to an inspection. Inspections and maintenance activities shall be documented and recorded.
7. Non-Storm water Discharges - The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include a description of any tests for the presence of non-storm water discharges, the methods used, the dates of the testing, and any onsite drainage points that were observed during the testing. Any facility that is unable to provide this certification must describe the procedure of any test conducted for the presence of non-storm water discharges, the test results, potential sources of non-storm water discharges to the storm sewer, and why adequate tests for such storm sewers were not feasible. Except as provided in C.1. b., discharges not comprised entirely of storm water are not authorized by this permit.
 8. The permittee shall conduct an annual facility inspection to verify that all elements of the plan, including the site map, potential pollutant sources, and structural and non-structural controls to reduce pollutants in industrial storm water discharges are accurate. Observations that require a response and the appropriate response to the observation shall be retained as part of the plan. Records documenting significant observations made during the site inspection shall be submitted to the Agency in accordance with the reporting requirements of this permit.
 9. This plan should briefly describe the appropriate elements of other program requirements, including Spill Prevention Control and Countermeasures (SPCC) plans required under Section 311 of the CWA and the regulations promulgated thereunder, and Best Management Programs under 40 CFR 125.100.
 10. The plan is considered a report that shall be available to the public at any reasonable time upon request. The permittee may claim portions of the plan as confidential business information, including any portion describing facility security measures.
 11. The plan shall include the signature and title of the person responsible for preparation of the plan and include the date of initial preparation and each amendment thereto.
 12. Facilities which discharge storm water associated with industrial activity to municipal separate storm sewers may also be subject to additional requirements imposed by the operator of the municipal system.

F. CONSTRUCTION AUTHORIZATION

Authorization is hereby granted to construct treatment works and related equipment that may be required by the Storm Water Pollution Prevention Plan developed pursuant to this permit.

This Authorization is issued subject to the following condition(s).

1. If any statement or representation is found to be incorrect, this authorization may be revoked and the permittee thereupon waives all rights thereunder.
2. The issuance of this authorization (a) does not release the permittee from any liability for damage to persons or property caused by or resulting from the installation, maintenance or operation of the proposed facilities; (b) does not take into consideration the structural stability of any units or part of this project; and (c) does not release the permittee from compliance with other applicable statutes of the State of Illinois, or other applicable local law, regulations or ordinances.
3. Plans and specifications of all treatment equipment being included as a part of the stormwater management practice shall be included in the SWPPP.
4. Any modification of or deviation from the plans and specifications originally submitted with the initial SWPPP requires amendment of the SWPPP.

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2. Any owner or operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The owner or operator shall submit an individual application with reasons supporting the request, in accordance with the requirements of 40 CFR 122.28, to the Agency. The request shall be granted by issuing of an individual permit or an alternative general permit if the reasons cited by the owner or operator are adequate to support the request.
3. When an individual NPDES permit is issued to an owner or operator otherwise subject to this permit, or the owner or operator is approved for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the issue date of the individual permit or the date of approval for coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied coverage under an alternative NPDES general permit the applicability of this permit to the individual NPDES permitted is automatically terminated on the date of such denial, unless otherwise specified by the Agency.

I. REOPENER CLAUSE

1. If there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with industrial activity covered by this permit, the discharger may be required to obtain an individual permit or an alternative general permit in accordance with Part H.I. of this permit or the permit may be modified to include different limitations and/or requirements.
2. Permit modification or revocation will be conducted according to provisions of 35 Ill. Adm. Code, Subtitle C, Chapter I and the provisions of 40 CFR 122.62, 122.63, 122.64 and 124.5 and any other applicable public participation procedures.
3. The Agency will reopen and modify this permit under the following circumstances:
 - a. the U.S. EPA amends its regulations concerning public participation;
 - b. a court of competent jurisdiction binding in the State of Illinois or the 7th Circuit issues an order necessitating a modification of public participation for general permits; or
 - c. to incorporate federally required modifications to the substantive requirements of this permit.

J. DEFINITIIONS

1. Coal pile runoff means the rainfall runoff from or through any coal storage pile.
2. Land application site means an area where wastes are applied onto or incorporated into the soil surface for treatment or disposal.
3. Landfill means an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a land application site, surface impoundment, injection well or waste pile.
4. Section 313 water priority chemical means a chemical or chemical categories which: 1) Are listed at 40 CFR 372.65 pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986); 2) are present at or above threshold levels at a facility subject to EPCRA Section 313 reporting requirements; and 3) that meet at least one of the following criteria: (i) Are listed in Appendix D of 40 CFR 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances); (ii) are listed as a hazardous substance pursuant to section 311(b)(2)(A) of the CWA at 40 CFR 116.4; or (iii) are pollutants for which EPA has published acute or chronic water quality criteria.
5. Significant materials includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to EPCRA Section 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.
6. Significant spills includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or section 102 of CERCLA (see 40 CFR 302.4).

Note that additional definitions are included in the permit Standard Conditions, Attachment H.

- (1) The authorization is made in writing by a person described in paragraph (a); and
- (2) The authorization specifies either an individual or a position responsible for the overall operation of the facility, from which the discharge originates, such as a plant manager, superintendent or person of equivalent responsibility; and
- (3) The written authorization is submitted to the Agency.
- (c) Changes of Authorization. If an authorization under (b) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.
- (12) Reporting requirements.
- (a) Planned changes. The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR).
- (2) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
- (3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Agency in the permit.
- (e) Twenty-four hour reporting. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and time; and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The following shall be included as information which must be reported within 24 hours:
- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
- (2) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Agency in the permit to be reported within 24 hours.
- The Agency may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (f) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (12)(c), (d), or (e), at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (12)(e).
- (g) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the Agency, it shall promptly submit such facts or information.
- (13) Transfer of permits. A permit may be automatically transferred to a new permittee if:
- (a) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date;
- (b) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees; and
- (c) The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement.
- (14) All manufacturing, commercial, mining, and silvicultural dischargers must notify the Agency as soon as they know or have reason to believe:
- (a) That any activity has occurred or will occur which would result in the discharge of any toxic pollutant identified under Section 307 of the Clean Water Act which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:
- (1) One hundred micrograms per liter (100 ug/l);
- (2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony.
- (3) Five (5) times the maximum concentration value reported for that pollutant in the NPDES permit application; or
- (4) The level established by the Agency in this permit.
- (b) That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the NPDES permit application.
- (15) All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Agency of the following:
- (a) Any new introduction of pollutants into that POTW from an indirect discharge which would be subject to Sections 301 or 306 of the Clean Water Act if it were directly discharging those pollutants; and
- (b) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- (c) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (16) If the permit is issued to a publicly owned or publicly regulated treatment works, the permittees shall require any industrial user of such treatment works to comply with federal requirements concerning:
- (a) User charges pursuant to Section 204(b) of the Clean Water Act, and applicable regulations appearing in 40 CFR 35;
- (b) Toxic pollutant effluent standards and pretreatment standards pursuant to Section 307 of the Clean Water Act; and
- (c) Inspection, monitoring and entry pursuant to Section 308 of the Clean Water Act.
- (17) If an applicable standard or limitation is promulgated under Section 301(b)(2)(C) and (D), 304(b)(2), or 307(a)(2) and that effluent standard or limitation is more stringent than any effluent limitation in the permit, or controls a pollutant not limited in the permit, the permit shall be promptly modified or revoked, and reissued to conform to that effluent standard or limitation.
- (18) Any authorization to construct issued to the permittee pursuant to 35 Ill. Adm. Code 309.154 is hereby incorporated by reference as a condition of this permit.
- (19) The permittee shall not make any false statement, representation or certification in any application, record, report, plan or other document submitted to the Agency or the USEPA, or required to be maintained under this permit.
- (20) The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both.
- (21) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- (22) The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit shall, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- (23) Collected screening, sludges, sludges, and other solids shall be disposed of in such a manner as to prevent entry of those wastes (or runoff from the wastes) into waters of the State. The proper authorization for such disposal shall be obtained from the Agency and is incorporated as part hereof by reference.
- (24) In case of conflict between these standard conditions and any other condition(s) included in this permit, the other condition(s) shall govern.
- (25) The permittee shall comply with, in addition to the requirements of the permit, all applicable provisions of 35 Ill. Adm. Code, Subtitle C, Subtitle D, Subtitle E, and all applicable orders of the Board.
- (26) The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit is held invalid, the remaining provisions of this permit shall continue in full force and effect.
- (Rev. 3-13-98)

NPDES Permit No. IL0002127

Illinois Environmental Protection Agency

Division of Water Pollution Control

1021 North Grand Avenue East

Post Office Box 19276

Springfield, Illinois 62794-9276

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Reissued (NPDES) Permit

Expiration Date: February 28, 2011

Issue Date: January 24, 2006

Effective Date: March 1, 2006

Name and Address of Permittee:

Union Pacific Railroad
1416 Dodge Street
MC:LM005NR
Omaha, NE 68179

Facility Name and Address:

Union Pacific Railroad
5050 West Lake Street
Melrose Park, Illinois 60160
(Cook County)

Discharge Number and Name:

001 - Stormwater Runoff

Receiving Waters:

Mud Creek tributary to Addison Creek

In compliance with the provisions of the Illinois Environmental Protection Act, Title 35 of Ill. Adm. Code, Subtitle C and/or Subtitle D, Chapter 1, and the Clean Water Act (CWA), the above-named permittee is hereby authorized to discharge at the above location to the above-named receiving stream in accordance with the standard conditions and attachments herein.

Permittee is not authorized to discharge after the above expiration date. In order to receive authorization to discharge beyond the expiration date, the permittee shall submit the proper application as required by the Illinois Environmental Protection Agency (IEPA) not later than 180 days prior to the expiration date.



Alan Keller, P.E.
Manager, Permit Section
Division of Water Pollution Control

SAK:LRL:05101304.bah

NPDES Permit No. IL0002127

Effluent Limitations and Monitoring

1. From the effective date of this permit until the expiration date, the effluent of the following discharge(s) shall be monitored and limited at all times as follows:

Outfall: 001

PARAMETER	LOAD LIMITS lbs/day DAF (DMF)		CONCENTRATION LIMITS mg/l		SAMPLE FREQUENCY	SAMPLE TYPE
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		
Flow (MGD)*					Measure When Monitoring	
pH**					Quarterly	Grab
Fats, Oil, & Grease			15	30	Quarterly	Grab
BOD ₅					Quarterly	Grab
Total Suspended Solids					Quarterly	Grab
Benzene					Quarterly	Grab
Toluene					Quarterly	Grab
Ethylbenzene					Quarterly	Grab
Xylenes (Total)					Quarterly	Grab

* See Special Condition 1.

** See Special Condition 2.

NPDES Permit No. IL0002127

Special Conditions

SPECIAL CONDITION 1. Flow shall be measured in units of Million Gallons per Day (MGD) and reported as a monthly average and a daily maximum on the monthly Discharge Monitoring Report.

SPECIAL CONDITION 2. The pH shall be in the range 6.0 to 9.0. The monthly minimum and monthly maximum values shall be reported on the DMR form.

SPECIAL CONDITION 3. The Permittee shall record monitoring results on Discharge Monitoring Report (DMR) Forms using one such form for each outfall each month.

In the event that an outfall does not discharge during a monthly reporting period, the DMR Form shall be submitted with no discharge indicated.

The Permittee may choose to submit electronic DMRs (eDMRs) instead of mailing paper DMRs to the IEPA. More information, including registration information for the eDMR program, can be obtained on the IEPA website, <http://www.epa.state.il.us/water/edmr/index.html>.

The completed Discharge Monitoring Report forms shall be submitted to IEPA no later than the 15th day of the following month, unless otherwise specified by the permitting authority.

Permittees not using eDMRs shall mail Discharge Monitoring Reports with an original signature to the IEPA at the following address:

Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Attention: Compliance Assurance Section, Mail Code # 19

SPECIAL CONDITION 4. Samples taken in compliance with the effluent monitoring requirements shall be taken at a point representative of the discharge, but prior to entry into the receiving stream.

SPECIAL CONDITION 5. The Agency has determined that the effluent limitations in this permit constitute BAT/BCT for storm water which is treated in the existing treatment facilities for purposes of this permit reissuance, and no pollution prevention plan will be required for such storm water. In addition to the chemical specific monitoring required elsewhere in this permit, the permittee shall conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity, and determine whether any facility modifications have occurred which result in previously-treated storm water discharges no longer receiving treatment. If any such discharges are identified the permittee shall request a modification of this permit within 30 days after the inspection. Records of the annual inspection shall be retained by the permittee for the term of this permit and be made available to the Agency on request.

SPECIAL CONDITION 6. If an applicable effluent standard or limitation is promulgated under Sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the NPDES Permit, the Agency shall revise or modify the permit in accordance with the more stringent standard or prohibition and shall so notify the permittee.

SPECIAL CONDITION 7. For this Outfall 001 is limited to stormwater, free from process and other wastewater discharges.

Standard Conditions

Definitions

Act means the Illinois Environmental Protection Act, Ch. 111 1/2 Ill. Rev. Stat., Sec. 1001-1052 as Amended.

Agency means the Illinois Environmental Protection Agency.

Board means the Illinois Pollution Control Board.

Clean Water Act (formerly referred to as the Federal Water Pollution Control Act) means Pub. L. 92-500, as amended. 33 U.S.C. 1251 et seq

NPDES (National Pollutant Discharge Elimination System) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318 and 405 of the Clean Water Act.

USEPA means the United States Environmental Protection Agency.

Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Maximum Daily Discharge Limitation (daily maximum) means the highest allowable daily discharge.

Average Monthly Discharge Limitation (30 day average) means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Average Weekly Discharge Limitation (7 day average) means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Aliquot means a sample of specified volume used to make up a total composite sample.

Grab Sample means an individual sample of at least 100 milliliters collected at a randomly-selected time over a period not exceeding 15 minutes.

24 Hour Composite Sample means a combination of at least 8 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over a 24-hour period.

8 Hour Composite Sample means a combination of at least 3 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over an 8-hour period.

Flow Proportional Composite Sample means a combination of sample aliquots of at least 100 milliliters collected at periodic intervals such that either the time interval between each aliquot or the volume of each aliquot is proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot.

- (1) **Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or for denial of a permit renewal application. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (2) **Duty to reapply.** If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. If the permittee submits a proper application as required by the Agency no later than 180 days prior to the expiration date, this permit shall continue in full force and effect until the final Agency decision on the application has been made.
- (3) **Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- (4) **Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- (5) **Proper operation and maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up, or auxiliary facilities, or similar systems only when necessary to achieve compliance with the conditions of the permit.

(6) **Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause by the Agency pursuant to 40 CFR 122.82. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(7) **Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.

(8) **Duty to provide information.** The permittee shall furnish to the Agency within a reasonable time, any information which the Agency may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with the permit. The permittee shall also furnish to the Agency, upon request, copies of records required to be kept by this permit.

(9) **Inspection and entry.** The permittee shall allow an authorized representative of the Agency, upon the presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purpose of assuring permit compliance, or as otherwise authorized by the Act, any substances or parameters at any location.

(10) **Monitoring and records.**

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records, and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of this permit, measurement, report or application. This period may be extended by request of the Agency at any time.
- (c) Records of monitoring information shall include:
 - (1) The date, exact place, and time of sampling or measurements;
 - (2) The individual(s) who performed the sampling or measurements;
 - (3) The date(s) analyses were performed;
 - (4) The individual(s) who performed the analyses;
 - (5) The analytical techniques or methods used; and
 - (6) The results of such analyses.

(d) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Where no test procedure under 40 CFR Part 136 has been approved, the permittee must submit to the Agency a test method for approval. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to ensure accuracy of measurements.

(11) **Signatory requirement.** All applications, reports or information submitted to the Agency shall be signed and certified.

(a) **Application.** All permit applications shall be signed as follows:

- (1) For a corporation: by a principal executive officer of at least the level of vice president or a person or position having overall responsibility for environmental matters for the corporation;
- (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
- (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.

(b) **Reports.** All reports required by permits, or other information requested by the Agency shall be signed by a person described in paragraph (a) or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (1) The authorization is made in writing by a person described in paragraph (a); and
- (2) The authorization specifies either an individual or a position responsible for the overall operation of the facility, from which the discharge originates, such as a plant manager, superintendent or person of equivalent responsibility; and
- (3) The written authorization is submitted to the Agency.

- (c) **Changes of Authorization.** If an authorization under (b) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.
- (12) **Reporting requirements.**
- (a) **Planned changes.** The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.
- (b) **Anticipated noncompliance.** The permittee shall give advance notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) **Compliance schedules.** Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (d) **Monitoring reports.** Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR).
- (2) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
- (3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Agency in the permit.
- (e) **Twenty-four hour reporting.** The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The following shall be included as information which must be reported within 24 hours:
- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
- (2) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Agency in the permit to be reported within 24 hours;
- The Agency may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (f) **Other noncompliance.** The permittee shall report all instances of noncompliance not reported under paragraphs (12)(c), (d), or (e), at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (12)(e).
- (g) **Other information.** Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the Agency, it shall promptly submit such facts or information.
- (13) **Transfer of permits.** A permit may be automatically transferred to a new permittee if:
- (a) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date;
- (b) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees; and
- (c) The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement.
- (14) **All manufacturing, commercial, mining, and silvicultural dischargers must notify the Agency as soon as they know or have reason to believe:**
- (a) That any activity has occurred or will occur which would result in the discharge of any toxic pollutant identified under Section 307 of the Clean Water Act which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:
- (1) One hundred micrograms per liter (100 ug/l);
- (2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- (3) Five (5) times the maximum concentration value reported for that pollutant in the NPDES permit application; or
- (4) The level established by the Agency in this permit.
- (b) That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the NPDES permit application.
- (15) **All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Agency of the following:**
- (a) Any new introduction of pollutants into that POTW from an indirect discharger which would be subject to Sections 301 or 308 of the Clean Water Act if it were directly discharging those pollutants; and
- (b) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- (c) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (16) **If the permit is issued to a publicly owned or publicly regulated treatment works, the permittee shall require any industrial user of such treatment works to comply with federal requirements concerning:**
- (1) User charges pursuant to Section 204(b) of the Clean Water Act, and applicable regulations appearing in 40 CFR 35;
- (2) Toxic pollutant effluent standards and pretreatment standards pursuant to Section 307 of the Clean Water Act; and
- (3) Inspection, monitoring and entry pursuant to Section 308 of the Clean Water Act.
- (17) **If an applicable standard or limitation is promulgated under Section 301(b)(2)(C) and (D), 304(b)(2), or 307(a)(2) and that effluent standard or limitation is more stringent than any effluent limitation in the permit, or controls a pollutant not limited in the permit, the permit shall be promptly modified or revoked, and reissued to conform to that effluent standard or limitation.**
- (18) **Any authorization to construct issued to the permittee pursuant to 35 Ill. Adm. Code 309.154 is hereby incorporated by reference as a condition of this permit.**
- (19) **The permittee shall not make any false statement, representation or certification in any application, record, report, plan or other document submitted to the Agency or the USEPA, or required to be maintained under this permit.**
- (20) **The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 308, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 308, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500, nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both.**
- (21) **The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.**
- (22) **The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit shall, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.**
- (23) **Collected screening, slurrries, sludges, and other solids shall be disposed of in such a manner as to prevent entry of those wastes (or runoff from the wastes) into waters of the State. The proper authorization for such disposal shall be obtained from the Agency and is incorporated as part hereof by reference.**
- (24) **In case of conflict between these standard conditions and any other condition(s) included in this permit, the other condition(s) shall govern.**
- (25) **The permittee shall comply with, in addition to the requirements of the permit, all applicable provisions of 35 Ill. Adm. Code, Subtitle C, Subtitle D, Subtitle E, and all applicable orders of the Board.**
- (26) **The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit is held invalid, the remaining provisions of this permit shall continue in full force and effect.**



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-0610

February 14, 2006

CHICAGO NORTHWESTERN RAILROAD
301 W LAKE STREET - NORTH LAKE
MELROSE PARK, IL 60164

Re: FACILITY: CHI NORTHWEST RR-MELROSE PARK MELROSE PARK
NPDES Permit No: ILR003013
COUNTY: COOK
Termination of NPDES Industrial Storm Water Permit

Dear Permit Applicant:

The Illinois Environmental Protection Agency has determined that your facility is not required to obtain an NPDES storm water permit.

The final decision of the Agency is to terminate NPDES Permit No.ILR003013 effective immediately.

Please be advised that if activities change on site, thus requiring a permit, you must submit a new Notice of Intent to this Agency.

Should you have any questions or comments, please contact the Permit Section at the above telephone number and address.

Very truly yours,

Alan Keller
Alan Keller, P.E.

Manager, Permit Section
Division of Water Pollution Control

AK:med:ind term9

cc: Records Unit

Region 2

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • Des PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
CAS - Peoria, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4700 S. West Street, Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-0610

March 10, 2006

Lee Hammond, Manager Environmental Field Operations
Union Pacific Railroad Company
1400 Douglas Street, Stop 1080
Omaha, NE 68179

RE: Union Pacific Railroad
NPDES Permit No. IL0002127
Refusal of Termination

Dear Mr. Hammond:

We received your letter and supporting documents dated January 17, 2006 concerning your request to terminate NPDES Permit IL0002127. We have reviewed the information and find that an NPDES permit termination is not required under Illinois Pollution Control Board Chapter 1: Subtitle C Regulations, Sub-part A for the facilities concerned.

Specifically, the stormwater discharge covered under the general stormwater permit flows to the outfall covered under this permit NPDES IL0002127. Therefore the General NPDES Stormwater Permit will be terminated and this permit will remain in effect.

This notice constitutes the final action by this Agency on this submission in accordance with the Illinois Environmental Protection Act.

Should you have any questions or comments regarding the above, please contact Leslie Lowry at the indicated telephone number and address above.

Sincerely,

A handwritten signature in black ink that reads "Alan Keller".

Alan Keller, P.E.
Manager, Permit Section
Division of Water Pollution Control

SAK:LRL:02127ter.wpd

cc: Christopher Harvey, PE / TRC
Des Plaines Region
Records

Binds

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
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MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200