

From: [Wallace, Elizabeth](#)
To: [Brown, Don](#)
Cc: [Dunn, Matthew](#); [Armstrong, Andrew](#)
Subject: [External] Notice required under Section 103.306 for settlements involving NPDES permit matters
Date: Wednesday, April 05, 2017 9:55:10 AM
Attachments: [Scanned from a Xerox Multifunction Printer.pdf](#)
[Not of Filing Settlement only with 12\(f\) count draft 04 04 17.docx](#)
[Notice of Filing Comp and Stip for 12\(f\) matters 04 04 17.docx](#)

Hello Don, I write regarding the notice requirement for settlements that involve NPDES permit matters found in Section 103.306 of the Board Procedural Rules and 40 C.F.R. 123.27 (d), both of which are set forth below. The Board Rule, and the regulation from the Code of Federal Regulations, provide that notice must be given, and an opportunity for public comment, for settlements that involve NPDES permit matters. We intend to include in our Notices of Filing of Stipulations that involve NPDES permit matters that the Board will publish Notice for 30 days in the Environmental Register and that the Board may consider any comments submitted during the notice period (see attached samples for notices of filing these matters). Before we do that, we wanted to advise the Board and discuss as necessary. I have attached an IEPA Public Notice that provides some additional information on the subject.

Matt Dunn will also reach out to the Chairman Keenan regarding this issue and will attempt to set up a call or meeting to discuss. In the meantime, please contact me if you need any more information or have any questions.

Section 103.306 Board Order on Proposed Stipulation and Settlement Agreement

- a) The Board will consider the proposed settlement and stipulation agreement and the hearing record, if any. The Board may accept, suggest revisions in, reject the proposed settlement and stipulation agreement, or direct initial or further hearings as it deems appropriate. Where a National Pollutant Discharge Elimination System (NPDES) permit is involved in the settlement, notice of settlement must be published in the Environmental Register at least 30 days prior to the settlement.

AND

40 C.F.R. 123.27 (d) Any State administering a [National Pollutant Discharge Elimination System] program shall provide for public participation in the State enforcement process by providing either:

- (1) Authority which allows intervention as of right in any civil or administrative action to obtain remedies specified in paragraphs (a)(1), (2) or (3) of this section by any citizen having an interest which is or may be adversely affected; or
- (2) Assurance that the State agency or enforcement authority will:
 - (i) Investigate and provide written responses to

all citizen complaints submitted pursuant to the procedures specified in § 123.26(b)(4);

- (ii) Not oppose intervention by any citizen when permissive intervention may be authorized by statute, rule, or regulation; and
- (iii) Publish notice of and provide at least 30 days for public comment on any proposed settlement of a State enforcement action.

Regards,

Beth

Elizabeth Wallace, Chief
Environmental Bureau / Chicago
Office of the Illinois Attorney General
69 W. Washington St., 18th Flr.
Chicago, IL 60602
(312)814-5396
(312)814-2347 (fax)
ewallace@atg.state.il.us

Brown, Don

From: Tipsord, Marie
Sent: Wednesday, April 05, 2017 11:41 AM
To: Brown, Don
Subject: FW: [External] Notice required under Section 103.306 for settlements involving NPDES permit matters
Attachments: IEPA Fact Sheet NPDES Settlements Public Notice and Comment 0317.pdf; ATT00001.htm; Not of Filing Settlement only with 12(f) count draft 04 04 17.docx; ATT00002.htm; Notice of Filing Comp and Stip for 12(f) matters 04 04 17.docx; ATT00003.htm

Add this email to the public comment from Beth, the attachments are the same so I would just make this all one comment

From: Keenan, Gerald
Sent: Wednesday, April 5, 2017 11:37 AM
To: Tipsord, Marie <Marie.Tipsord@illinois.gov>
Subject: Fwd: [External] Notice required under Section 103.306 for settlements involving NPDES permit matters

Sent from my iPhone

Begin forwarded message:

From: "Dunn, Matthew" <MDunn@atg.state.il.us>
Date: April 5, 2017 at 10:51:06 CDT
To: "'Keenan, Gerald'" <Gerald.Keenan@illinois.gov>
Cc: "'Kim, John J.'" <John.J.Kim@Illinois.gov>, "Wallace, Elizabeth" <EWallace@atg.state.il.us>
Subject: [External] Notice required under Section 103.306 for settlements involving NPDES permit matters

Mr. Chairman: I believe you have received some information about the above topic, and the determination by IEPA and my Office that the State needs to modify its approach in resolving violations of NPDES permit violations through negotiation. Part of our review involves existing Board Procedural rules. We shared the below with your administrative staff earlier today. I would welcome the opportunity to discuss your thoughts on our suggested approach.

In particular, I look to be in Chicago on April 14th and April 17th, if those dates would work for me to stop by and discuss. Thanks for your review.

Matthew J. Dunn, Chief
Environmental Enforcement/Asbestos
Litigation Division
Illinois Attorney General's Office
500 South Second Street
Springfield, IL 62706
tx 217-524-5511

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From: Wallace, Elizabeth
Sent: Wednesday, April 05, 2017 9:55 AM
To: 'don.brown@illinois.gov'
Cc: Dunn, Matthew; Armstrong, Andrew
Subject: Notice required under Section 103.306 for settlements involving NPDES permit matters

Hello Don, I write regarding the notice requirement for settlements that involve NPDES permit matters found in Section 103.306 of the Board Procedural Rules and 40 C.F.R. 123.27 (d), both of which are set forth below. The Board Rule, and the regulation from the Code of Federal Regulations, provide that notice must be given, and an opportunity for public comment, for settlements that involve NPDES permit matters. We intend to include in our Notices of Filing of Stipulations that involve NPDES permit matters that the Board will publish Notice for 30 days in the Environmental Register and that the Board may consider any comments submitted during the notice period (see attached samples for notices of filing these matters). Before we do that, we wanted to advise the Board and discuss as necessary. I have attached an IEPA Public Notice that provides some additional information on the subject.

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- (1) Authority which allows intervention as of right in any civil or administrative action to obtain remedies

Electronic Filing: Received, Clerk's Office 4/5/2017 **PC#5**
specified in paragraphs (a)(1), (2) or (3) of this section
by any citizen having an interest which is or may be
adversely affected; or

- (2) Assurance that the State agency or enforcement authority will:
 - (i) Investigate and provide written responses to all citizen complaints submitted pursuant to the procedures specified in § 123.26(b)(4);
 - (ii) Not oppose intervention by any citizen when permissive intervention may be authorized by statute, rule, or regulation; and
 - (iii) Publish notice of and provide at least 30 days for public comment on any proposed settlement of a State enforcement action.

Regards,

Beth

Elizabeth Wallace, Chief
Environmental Bureau / Chicago
Office of the Illinois Attorney General
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ewallace@atg.state.il.us

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, by LISA))	
MADIGAN, Attorney General of the State of))	
Illinois,))	
Complainant,))	
v.))	PCB No.
Respondent.))	(Enforcement-Water)

**NOTICE OF FILING COMPLAINT
AND SETTLEMENT INVOLVING NPDES PERMIT MATTER**

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board (Board) by electronic filing the following Complaint, a copy of which is attached and hereby served upon you. **You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.**

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

PLEASE TAKE NOTICE I have today filed with the Illinois Pollution Control Board the Motion to Request Relief from Hearing Requirement with Respondent, . and Stipulation and Proposal for Settlement, copies of which are attached hereto and are hereby served upon you.

NOTIFICATION – Pursuant to Section 103.306 of the Board Procedural Rules, 35 Ill. Adm. Code 103.306, where a National Pollutant Discharge Elimination System (NPDES) permit is involved in the settlement, the Board must publish a notice of settlement in the

Environmental Register at least 30 days prior to accepting this settlement. This settlement involves an NPDES permit and therefore this notice shall be published. The Board may consider any comments submitted during the notice period.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

By: _____

Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., 18th Floor
Chicago, Illinois 60602

Date: _____

THIS FILING IS SUBMITTED ON RECYCLED PAPER

Service List

For the Respondent

CERTIFICATE OF SERVICE

I, _____, an Assistant Attorney General, certify that on the 5th day of September 2017, I caused to be served by Regular U.S. Mail the foregoing Notice of Filing Complaint and Settlement Involving NPDES Permit Matter and Complaint and Stipulation to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.

Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, by LISA))	
MADIGAN, Attorney General of the State of))	
Illinois,))	
)	
Complainant,))	
)	PCB No.
v.))	(Enforcement- Water)
)	
Respondent.))	

NOTICE OF FILING SETTLEMENT
INVOLVING NPDES PERMIT MATTER

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that on the ___th day of ___, 2017, I filed with the Illinois Pollution Control Board the Motion to Request Relief from Hearing Requirement with Respondent, . and Stipulation and Proposal for Settlement, copies of which are attached hereto and are hereby served upon you.

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Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
BY LISA MADIGAN, Attorney General of
the State of Illinois

By: _____

Assistant Attorney General
Environmental Bureau
Illinois Attorney General’s Office
69 W. Washington St., 18th Floor
Chicago, Illinois 60602

Date:

THIS FILING IS SUBMITTED ON RECYCLED PAPER