

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD OF
THE STATE OF ILLINOIS

CITY OF GENEVA)	
)	
Petitioner,)	
)	
v.)	PCB 2007-039
)	NPDES Permit Appeal
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY)	
)	
Respondent)	

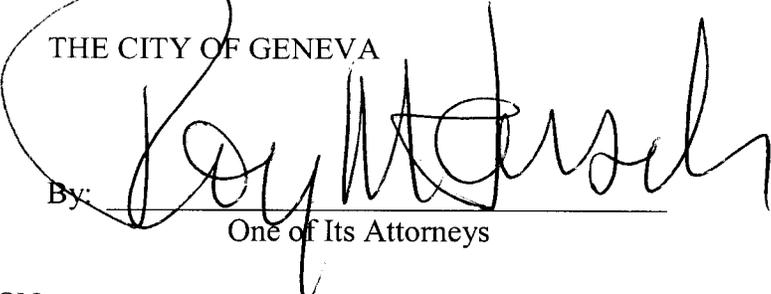
NOTICE OF FILING

TO: Clerk, Illinois Pollution Control Board	Sonjay Sofat
State of Illinois Center	Illinois Environmental Protection Agency
100 West Randolph Street	1021 N. Grand Avenue East
Suite 11-500	Springfield, IL 62794-9276
Chicago, IL 60601	

PLEASE TAKE NOTICE that on Wednesday, February 14, 2007, we filed the attached **Petition for NPDES Permit Appeal** with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

THE CITY OF GENEVA

By: 

One of Its Attorneys

Roy M. Harsch
DRINKER BIDDLE GARDNER CARTON
191 North Wacker Drive - Suite 3700
Chicago, Illinois 60606
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THIS FILING IS SUBMITTED ON RECYCLED PAPER

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PETITION FOR NPDES PERMIT APPEAL

The City of Geneva (“City”), by its attorneys Drinker Biddle Gardner Carton petitions the Illinois Pollution Control Board (“Board”) pursuant to Section 40(a) of the Illinois Environmental Protection Act, 415 ILCS § 5/40(a), to grant the City a hearing to contest conditions of the NPDES permit issued by the Illinois Environmental Protection Agency (“Illinois EPA”). In support, the City states as follows:

1. On October 13, 2006, the Illinois EPA issued final NPDES Permit No. IL0020087 (“Permit”) for the City’s Wastewater Treatment Plant (“Plant”). Permit attached as Exhibit 1. At the request of the City, the Illinois EPA submitted a request for an extension of the appeal period for 90 days to allow discussion and potential resolution of concerns that the City had with its ability to meet permit conditions governing dissolved oxygen and copper limitations. By Order dated December 7, 2006, the Board granted the extension through February 15, 2007. Order attached as Exhibit 2.

2. The Permit issued to the City authorizes the City to discharge from its Plant in Geneva, Illinois to the Fox River, subject to certain conditions and limitations. Among other limits, the permit contains effluent limits for dissolved oxygen and copper. Special Condition 15

of the Permit imposes a dissolved oxygen limit of a minimum of 6 mg/L for the first time.

Illinois EPA attributes this new dissolved oxygen limit to low dissolved oxygen levels identified in the Fox River. However, there is no showing that the area where the City discharges its effluent is affected by such observed low dissolved oxygen levels, nor that the City's discharge causes or contributes to an observed dissolved oxygen water quality problem in the Fox River. Moreover, the Permit condition of a minimum 6.0 mg/L is not consistent with the current regulations found in 35 Ill. Adm. Code 302.206 which requires a 6.0 mg/l during at least 16 hours of any 24 hour period, nor less than 5.0 mg/l at any time.

3. Because this condition is of first impression for the City, there is limited monitoring data available to the City. Due to this limited monitoring data, the City is uncertain whether it can consistently meet the dissolved oxygen limit. If changes to the Plant would be required to meet the new dissolved oxygen limit, then a compliance schedule will be needed. The Permit required compliance with the dissolved oxygen limit immediately.

4. The Board is in the process of reviewing the water quality standard for dissolved oxygen. See *In the matter of: Proposed Amendments to Dissolved Oxygen Standards 35 Ill. Adm. Code 302.206 (R2004-025)*. Given that all of the participants in this rule making have supported the adoption of a revised water quality standard for dissolved oxygen, it is unreasonable and infeasible to require changes or modifications at the Plant until the new standards have been set for dissolved oxygen. Moreover, the Fox River Study Group is currently reviewing existing water quality data, existing and future loadings and developing models for the Fox River; and will be developing plans and potential recommendations for revised limitations based on this work. Geneva is an active participant in this effort.

5. Alternatively, only monitoring requirements for dissolved oxygen should be imposed and results reported to the Illinois EPA. Illinois EPA should defer imposing limits in the Permit, if any, until such time in the future when appropriate and more accurate information is available to support the need for such limits.

6. The Illinois EPA included a copper effluent limit not to exceed .046 mg/L per day and Special Condition 10 in the Permit. This limit was based upon a "reasonable potential" analysis. While the City currently has limited monitoring data for its copper limits and concentrations, based upon the information the City has provided to the Illinois EPA there is no "reasonable potential" to exceed the limit imposed in its NPDES permit.

7. The permit as issued requires excessive monitoring of copper levels consisting of twice per week.

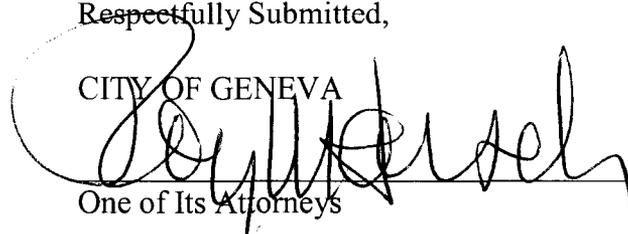
8. The City is therefore requesting that the Board overturn the Illinois EPA's decision to issue the Permit with the conditions as described above.

WHEREFORE, the City respectfully requests the Board to authorize a hearing, reverse the Illinois EPA's decision, and remand the Permit to the Illinois EPA to reissue it consistent with the concerns addressed in this Petition.

Respectfully Submitted,

CITY OF GENEVA

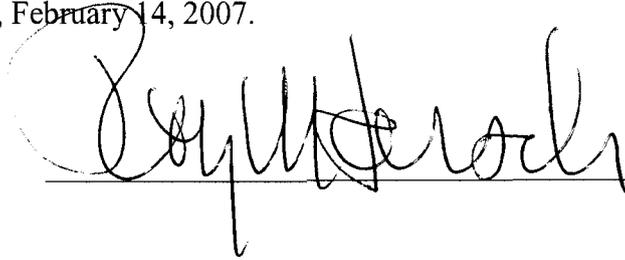
One of Its Attorneys

A large, handwritten signature in black ink, appearing to read "Roy M. Harsch", is written over a horizontal line. The signature is written in a cursive style.

Roy M. Harsch
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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **Notice of Filing and Petition for NPDES Permit Appeal** was filed by electronically with the Clerk of the Illinois Pollution Control Board and served upon the parties to whom said Notice is directed by first class mail, postage prepaid, by depositing in the U.S. Mail at 191 N. Wacker Drive – Suite 3700, Chicago, IL 60606 on Wednesday, February 14, 2007.



CH01/12501866.1