

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
NO_x EMISSIONS FROM STATIONARY) **R07-19**
RECIPROCATING INTERNAL COMBUSTION) **(Rulemaking – Air)**
ENGINES AND TURBINES:)
AMENDMENTS TO 35 ILL.ADM.CODE)
SECTION 201.146 AND PARTS 211 AND 217.)

NOTICE OF FILING

To:

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

Persons included on the
ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that we have today filed with the Office of the Clerk of the Pollution Control Board the **PIPELINE CONSORTIUM'S RESPONSE TO THE AGENCY'S MOTION FOR RECONSIDERATION OF HEARING OFFICER ORDER and AFFIDAVIT OF KATHLEEN C. BASSI.**



Kathleen C. Bassi

Dated: July 13, 2007

Renee Cipriano
Kathleen C. Bassi
Stephen J. Bonebrake
Joshua R. More
SCHIFF HARDIN, LLP
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
312-258-5500
Fax: 312-258-5600

-

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
NO_x EMISSIONS FROM STATIONARY) **R07-19**
RECIPROCATING INTERNAL COMBUSTION) **(Rulemaking – Air)**
ENGINES AND TURBINES:)
AMENDMENTS TO 35 ILL.ADM.CODE)
SECTION 201.146 AND PARTS 211 AND 217.)

**PIPELINE CONSORTIUM'S RESPONSE TO THE AGENCY'S
MOTION FOR RECONSIDERATION OF HEARING OFFICER ORDER**

NOW COME ANR PIPELINE COMPANY, NATURAL GAS PIPELINE COMPANY, TRUNKLINE GAS COMPANY, and PANHANDLE EASTERN PIPELINE COMPANY (collectively "the Pipeline Consortium"), by and through their attorneys, SCHIFF HARDIN LLP, and, pursuant to 35 Ill.Adm.Code §§ 101.500(d), 101.502, 101.504, 101.520(b), and 102.402, respond to the Illinois Environmental Protection Agency's ("Agency") Motion for Reconsideration of Hearing Officer Order filed electronically with the Board on July 12, 2007, and received by the Pipeline Consortium's counsel that same day via email, though paper service has not yet been completed. The Pipeline Consortium requests that the Hearing Officer neither grant the Agency's Motion for Reconsideration nor amend his Order issued on July 11, 2007, in response to the Pipeline Consortium's Motion for Production of Information filed electronically on June 29, 2007, and supplemented on July 3, 2007. In support of its request, the Pipeline Consortium states as follows:

-

I. PERTINENT BACKGROUND

1. The Pipeline Consortium filed its Motion for Production of Information on June 29, 2007.

2. The request for information was stylized as a Motion for Production of Information pursuant to the Board's regulations at 35 Ill.Adm.Code §§ 102.402 and 101.614 and filed with the Hearing Officer when, in response to an informal email request for the information sent to counsel for the Agency and copied to the service list on June 26, 2007,¹ the Agency provided ever-changing and ever-escalating requirements for the Pipeline Consortium's counsel to obtain the requested information.

3. The Agency's first response to this request was an email from Agency counsel to the Pipeline Consortium's counsel, with the parties on the service list not apparently copied, stating that the Agency was "working on [our] request" and that the Pipeline Consortium would not need to utilize the provisions of the Freedom of Information Act ("FOIA") but that the Agency would like the Pipeline Consortium to send a formal letter requesting the information.²

4. Several more emails were exchanged regarding what needed to be included in the letter and a question regarding the timeframe for the Agency to provide the information.³

5. After the exchange of emails between counsel for the Pipeline Consortium and one of the Agency's counsel, counsel for the Agency telephoned counsel for the Pipeline Consortium to state that not only was an informal email request insufficient, but the more formal

¹ See Exhibit 1, attached hereto.

² See Exhibit 2, attached hereto.

³ See Exhibit 3, attached hereto.

-

request for the information by letter was insufficient as well. The Agency insisted that the Pipeline Consortium file a formal request pursuant to FOIA in order to receive the information.

6. At that point in time, counsel for the Pipeline Consortium and counsel for the Agency telephoned the Hearing Officer regarding the propriety of the Agency's requiring the use of FOIA for participants of record in a rulemaking proceeding requesting materials, data, or other information relied upon by the Agency in its proposal of the rulemaking. The Hearing Officer was to look into the matter and get back to us. Counsel for the Agency reiterated during the call that the Agency expected to provide the information within 10-14 days, as stated in her email.

See Exhibit 2.

7. Subsequently, counsel for the Pipeline Consortium determined that, since the Agency appeared to be setting aside its long-standing practice of providing the information upon which it relied in a rulemaking to participants who request that information without following the formalities of motion practice, the formal Motion for Production of Information as set forth in the Board's rules was the more appropriate route for the Pipeline Consortium to follow. The Pipeline Consortium, then, filed its Motion for Production of Information on June 29, 2007, and supplemented it with more specific information regarding how the modeling data requested should be conveyed to the Pipeline Consortium's consultant on July 3, 2007.

8. At no time to date has the Agency withdrawn the testimony of Scott Leopold and Michael Koerber from Docket R07-19.⁴

9. Prior to the Agency's submittal of its Motion for Reconsideration, the Agency has never expressed any objection to providing the information requested and, in fact, agreed, both in writing and orally before the Hearing Officer, to provide the information.⁵

⁴ *See Exhibit 4, a print-out of the Board's online docket for R07-19, and Exhibit 5, the Agency's Motion to Withdraw Testimony in Docket R07-18, both attached hereto.*

-

12. The Agency next argues that it does not have the information that the Pipeline Consortium has requested. Whether the Agency has the information or its agent or expert, LADCO, has the information is immaterial. The Agency at the least constructively has this information. The Pipeline Consortium asserts, the Agency's claims to the contrary notwithstanding, that the Agency does, indeed, possess and control the information requested to the same extent that any party in a rulemaking that offers an expert's information as a basis or in support of its position regarding the proposal.

13. In this matter, because the Agency is relying upon the expertise of LADCO and because the Agency filed testimony that relied on the information sought, where the information presently physically resides is irrelevant. Presumably, the Agency reviewed the information prior to filing Mr. Koerber's testimony in Docket R07-18, but whether it did or not is a function of the Agency's care in developing rulemakings. Regardless of the degree of care it uses, the Agency must stand by what it submits. That same testimony was merely electronically transferred to Docket R07-19 when the Board bifurcated the rulemaking on May 17, 2007. The Agency's lack of physical possession of the information, particularly considering the manner in which such information is typically conveyed, *see* the Pipeline Consortium's Supplement to Motion for Reconsideration, p. 2, should not hinder its ability to provide – or to have its expert provide – the information requested.

14. The Agency also suggests that it has no control over LADCO. That is just patently false. LADCO is a not-for-profit consortium of the Lake Michigan Air Directors – meaning the air directors in the state environmental protection agencies of Illinois, Indiana, Michigan, Wisconsin, and now Ohio at least for some, if not all, purposes. LADCO is funded by the member states and through other public moneys, and it takes direction from the air directors

-

II. ARGUMENT

10. The Agency argues that it was not allowed the opportunity to file a timely response to the Pipeline Consortium's Motion for Production of Information. Agency's Motion for Reconsideration ("Mot."), p. 3. However, the Agency had already told the Hearing Officer and counsel for the Pipeline Consortium that it intended to provide the information and that it "hope[d]" to do so within 10-14 days.⁶

11. Given the information that had already been provided to the Hearing Officer by the Agency, the Hearing Officer appropriately applied the provisions of 35 Ill. Adm. Code § 101.500(d), which states in part, "Unless undue delay or material prejudice would result, neither the Board nor the hearing officer will grant any motion before expiration of the 14 day response period except in deadline driven proceedings where no waiver has been filed." (Emphasis added.) This provision allows the Board and hearing officers to grant motions prior to the expiration of the 14-day period. The Agency represented both in writing and orally before the Hearing Officer that it was "working on" providing the Pipeline Consortium with the requested information and that it "hope[d]" to provide it to the Pipeline Consortium within 10-14 days from the date of the Pipeline Consortium's request. The Agency expressed no objection to providing the information to what was eventually stylized as a motion. The Hearing Officer treated the Motion for Production of Information as uncontested, apparently based upon the prior representations of the Agency, which could reasonably have led him to believe that the motion was uncontested.

⁵ See Exhibits 2 and 3.

⁶ C.f. Exhibit 3.

-

comprising the consortium. To the extent that Illinois is a member of the consortium and to the extent that LADCO is serving as an expert for the Agency in this rulemaking, the Agency has control over LADCO.

15. The Agency argues that the Motion for Production of Information was premature, apparently because the Agency is not required to file its testimony in this rulemaking until August 27, 2007. This argument is just disingenuous. As noted above, the Agency has never withdrawn Mr. Koerber's testimony in this docket.⁷ The Agency's attempt to disavow that testimony in R07-19 because it did not file the testimony under that docket ignores the record that has been created in R07-19. *See* Mot., p. 5, fn. 2. To carry the Agency's argument here to the logical extreme, the Agency could disavow the entirety of the proposal in R07-19 because the Agency itself did not separately file the Agency's documents contained in the record under that particular docket number. The Agency relied on Mr. Koerber's testimony in the first instance of its submittal of its proposal to the Board. It is not premature or otherwise out of bounds for the Pipeline Consortium or any other participant in this rulemaking to request this information now.

16. The Agency states that it is currently considering the extent to which its original submittal is relevant.⁸ Mot. p. 5. The information was relevant at the time that the Pipeline Consortium requested it because the Agency had not withdrawn Mr. Koerber's testimony. To date, the Agency has not withdrawn Mr. Koerber's testimony. The information continues to be relevant. Moreover, aside from the Agency's reliance on Mr. Koerber's testimony, the information is relevant to the affirmative case that the Pipeline Consortium is considering

⁷ *See*, Exhibit 4.

⁸ We must note that if the Agency does not believe that its original proposal was relevant or sufficiently supported now, obviously it was not relevant or sufficiently supported when it was submitted.

-

presenting in this matter. It is not unreasonable for the Agency and LADCO to provide the Pipeline Consortium with this information.

17. To sum up, the Motion for Reconsideration appears to renege on the Agency's previous representations in that the Agency now implies that it should not have to provide the information. If, however, all that the Agency in fact requires is additional time to produce the information requested, the Pipeline Consortium is open to a reasonable extension of time, although we do not believe it is necessary.

WHEREFORE, for the reasons set forth above, the Pipeline Consortium requests that the Hearing Officer not grant the Agency its Motion for Reconsideration or amend his Order of July 11, 2007.

Respectfully submitted,

ANR PIPELINE COMPANY, NATURAL GAS
PIPELINE COMPANY, TRUNKLINE GAS
COMPANY, and PANHANDLE EASTERN PIPELINE
COMPANY

by:



One of Their Attorneys

Dated: July 13, 2007

STATE OF ILLINOIS)
) SS
COOK COUNTY)

AFFIDAVIT OF KATHLEEN C. BASSI

I, Kathleen C. Bassi, upon my oath, hereby state as follows:

1. I am an attorney employed by Schiff Hardin LLP representing the members of the Pipeline Consortium, enumerated in the attached Response to Motion for Reconsideration, in the rulemaking docketed as R07-19. The Pipeline Consortium are participants in this rulemaking.

2. I was previously employed by the Illinois Environmental Protection Agency, continuously from September 1985 through May 2001 with the exception of one year.

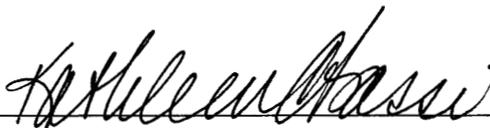
3. During part of the time that I was employed at the Illinois Environmental Protection Agency, from 1995 through May 2001, I was assigned to the Bureau Chief's Office of the Bureau of Air, where I performed various duties and assignments, many of which concerned the development of regulatory proposals. I also was involved in the Bureau's relationship with other agencies, including the Lake Michigan Air Director's Consortium ("LADCO"), the U.S. Environmental Protection Agency, and other states' environmental protection agencies.

4. As part of my duties in the Bureau Chief's Office, I became familiar with the official relationship between the Illinois Environmental Protection Agency and LADCO, including participating in the revision of its by-laws to include the State of Ohio and to expand the scope of LADCO's interest or investigation to include fine particulate matter.

5. I have drafted the Pipeline Consortium's Response to the Agency's Motion for Reconsideration dated July 13, 2007, filed with the Board on that same date.

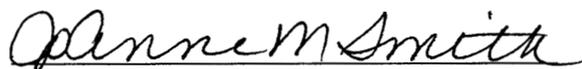
6. To the best of my knowledge, the factual information and representations contained therein are true and correct.

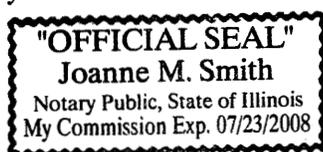
FURTHER AFFIANT SAYETH NOT.

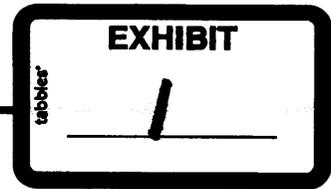


Kathleen C. Bassi

Subscribed and sworn to before me
this 13th day of July, 2007.


Notary Public





Bassi, Kathleen C.

From: Bassi, Kathleen C.
Sent: Tuesday, June 26, 2007 12:11 PM
To: 'John Kim'; Rachel Doctors
Cc: More, Joshua; Cipriano, Renee; Bassi, Kathleen C.; Board Hearing Officer Tim Fox; Bonebrake, Steve J.; Cipriano, Renee; DNR - Virginia Yang; DNR - William Richardson; IEPA - John Kim; IEPA - Rachel Doctors; IERG - Gale Newton; IERG - Katherine D. Hodge; IERG - LaDonna Driver; More, Joshua
Subject: R07-19 - Request for Data

John and Rachel:

We would like underlying information relative to Mike Koerber's testimony prefiled in R07-18 and moved over to R07-19. At least a part of this information is what I had informed you that our consultant, Dennis McNally at Alpine Geophysics, was talking with Kirk Baker about. I understand from Dennis that Mike has said that requests must now go through the lawyers. Our request is as follows:

The following data related to the BaseK OSAT/PSAT simulations summarized in Mike Koerber's powerpoint presentation that accompanied his testimony.

1. CAMx Run scripts for simulation K2012R4S1a_APCA_nopig
2. OSAT Source region maps for simulation K2012R4S1a_APCA_nopig
3. CAMx emissions files for simulation K2012R4S1a_APCA_nopig
4. CAMx model outputs for simulation K2012R4S1a_APCA_nopig
5. CAMx Run scripts for the PSAT simulations of K2012R4S1a
6. PSAT Source region maps for simulations of K2012R4S1a
7. CAMx emissions files for PSAT simulations of K2012R4S1a
8. CAMx model outputs for simulation K2012R4S1a

Basically, we would like the run scripts, source region maps, emissions files, and CAMx outputs for the OSAT and PSAT simulations presented in the PowerPoint exhibit.

Because this request is connected with a pending rulemaking, it seems that going through FOIA should not be necessary. However, if your preference is that we use FOIA, we can. If you have questions, please call, but I would like to have Dennis and, if possible, Rob Kaleel or Mike Koerber on the line to ensure that we all understand what we're asking for.

Thanks.

Kathleen

Kathleen C. Bassi
Schiff Hardin LLP
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606

312-258-5567 fax: 312-258-5600
kbassi@schiffhardin.com



Bassi, Kathleen C.

From: Rachel Doctors [Rachel.Doctors@illinois.gov]
Sent: Wednesday, June 27, 2007 1:57 PM
To: Bassi, Kathleen C.
Cc: John Kim
Subject: Re: R07-19 - Request for Data

We are working on your request. You do not need to send a FOIA request, but a letter to memorialize the request would be helpful.

>>> "Bassi, Kathleen C." <KBassi@schiffhardin.com> 6/26/2007 12:10 PM

>>>

John and Rachel:

We would like underlying information relative to Mike Koerber's testimony prefiled in R07-18 and moved over to R07-19. At least a part of this information is what I had informed you that our consultant, Dennis McNally at Alpine Geophysics, was talking with Kirk Baker about.

I understand from Dennis that Mike has said that requests must now go through the lawyers. Our request is as follows:

The following data related to the BaseK OSAT/PSAT simulations summarized in Mike Koerber's powerpoint presentation that accompanied his testimony.

1. CAMx Run scripts for simulation

K2012R4S1a_APCA_nopig 2. OSAT Source region maps for simulation

K2012R4S1a_APCA_nopig 3. CAMx emissions files for simulation K2012R4S1a_APCA_nopig

4. CAMx model outputs for simulation K2012R4S1a_APCA_nopig

5. CAMx Run scripts for the PSAT simulations of K2012R4S1a 6. PSAT Source region maps for simulations of K2012R4S1a 7.

CAMx emissions files for PSAT simulations of K2012R4S1a 8. CAMx model outputs for simulation K2012R4S1a

Basically, we would like the run scripts, source region maps, emissions files, and CAMx outputs for the OSAT and PSAT simulations presented in the PowerPoint exhibit.

Because this request is connected with a pending rulemaking, it seems that going through FOIA should not be necessary. However, if your preference is that we use FOIA, we can. If you have questions, please call, but I would like to have Dennis and, if possible, Rob Kaleel or Mike Koerber on the line to ensure that we all understand what we're asking for.

Thanks.

Kathleen

Kathleen C. Bassi
Schiff Hardin LLP

6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
312-258-5567 fax: 312-258-5600
kbassi@schiffhardin.com

Tax Matters: To the extent this message or any attachment concerns tax matters, it is not intended or written to be used, and cannot be used by a taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer under law.

This message and any attachments may contain confidential information protected by the attorney-client or other privilege.
If you believe that it has been sent to you in error, please reply to the sender that you received the message in error. Then delete it. Thank you.

Bassi, Kathleen C.



From: Rachel Doctors [Rachel.Doctors@illinois.gov]
Sent: Wednesday, June 27, 2007 2:01 PM
To: Bassi, Kathleen C.
Subject: RE: R07-19 - Request for Data

please provide an address for McNally. Hopefully within 10-14 days because of the holiday.

>>> "Bassi, Kathleen C." <KBassi@schiffhardin.com> 6/27/2007 1:59 PM

>>>

Okay, but it will say the same thing. What's your timeframe for getting this material to us, do you think? And I presume it will come through LADCO, right? It should be delivered directly to Dennis McNally, and Mike has his contact information. I'll put all this in the letter as well.

Kathleen C. Bassi
Schiff Hardin LLP
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
312-258-5567 fax: 312-258-5600
kbassi@schiffhardin.com

-----Original Message-----

From: Rachel Doctors [mailto:Rachel.Doctors@illinois.gov]
Sent: Wednesday, June 27, 2007 1:57 PM
To: Bassi, Kathleen C.
Cc: John Kim
Subject: Re: R07-19 - Request for Data

We are working on your request. You do not need to send a FOIA request, but a letter to memorialize the request would be helpful.

>>> "Bassi, Kathleen C." <KBassi@schiffhardin.com> 6/26/2007 12:10 PM

>>>

John and Rachel:

We would like underlying information relative to Mike Koerber's testimony prefiled in R07-18 and moved over to R07-19. At least a part of this information is what I had informed you that our consultant, Dennis McNally at Alpine Geophysics, was talking with Kirk Baker about.

I understand from Dennis that Mike has said that requests must now go through the lawyers. Our request is as follows:

The following data related to the BaseK OSAT/PSAT simulations summarized in Mike Koerber's powerpoint presentation that accompanied his testimony.

1. CAMx Run scripts for simulation

- K2012R4S1a_APCA_nopig 2. OSAT Source region maps for simulation
- K2012R4S1a_APCA_nopig 3. CAMx emissions files for simulation K2012R4S1a_APCA_nopig
- 4. CAMx model outputs for simulation K2012R4S1a_APCA_nopig
- 5. CAMx Run scripts for the PSAT simulations of K2012R4S1a
- 6. PSAT Source region maps for simulations of K2012R4S1a
- 7. CAMx emissions files for PSAT simulations of K2012R4S1a
- 8. CAMx model outputs for simulation K2012R4S1a

Basically, we would like the run scripts, source region maps, emissions files, and CAMx outputs for the OSAT and PSAT simulations presented in the PowerPoint exhibit.

Because this request is connected with a pending rulemaking, it seems that going through FOIA should not be necessary. However, if your preference is that we use FOIA, we can. If you have questions, please call, but I would like to have Dennis and, if possible, Rob Kaleel or Mike Koerber on the line to ensure that we all understand what we're asking for.

Thanks.

Kathleen

Kathleen C. Bassi
Schiff Hardin LLP
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
312-258-5567 fax: 312-258-5600
kbassi@schiffhardin.com

Tax Matters: To the extent this message or any attachment concerns tax matters, it is not intended or written to be used, and cannot be used by a taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer under law.

This message and any attachments may contain confidential information protected by the attorney-client or other privilege.
If you believe that it has been sent to you in error, please reply to the sender that you received the message in error. Then delete it. Thank you.



Board Links

- Home
- About The Board
- Statutes, Legislation, and Regulations
- E-Library
- Clerk's Office
- Rulemakings Pending Before the Board
- Calendar of Events
- Current Meeting Agenda
- News
- Privacy Notice
- Site Map
- Search Board Cases
- State Links**
- Search Illinois

[Search Tips]

- Illinois Environmental Protection Agency
- Illinois Department of Natural Resources
- Illinois Department of Agriculture
- Illinois State Fire Marshal
- The Illinois Register
- Illinois Small Business Advisor



View Case Details

General Information

Case No: R2007-019
Case Type: Rulemaking
Media Type: Air
County: Statewide

Case Name: In the Matter of : Section 27 Propos Rules for Nitrogen Oxide (NOx) Emis From Stationary Reciprocating Interi Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code P: 211 and 217

Board Member: Moore, A.S.

Hearing Officer: Fox, T.

Status: Board Order

Case Activity

Date	Activity Type	Activity Notes	
7/12/2007	Motion	Agency Motion for Reconsideration of the Hearing Officer Order; Affidavit of Robert Kaleel (electronic filing)	View
7/11/2007	Motion	Agency's Motion for Leave to File Reply by Date Certain (electronic filing)	View
7/11/2007	Hearing Officer Order/Correspondence	*Hearing Officer Order: On Friday, June 29, 2007, Pipeline Consortium filed motion for production of information, requested date be conveyed specific ways through various media, Consortium filed supplement to motion; Agency has filed no response; Agency directed to supply modeling data requested in motion and supplement through method described in the supplement, must supply data no later than Monday, July 16, 2007	View
7/9/2007	Motion	Agency's Motion for Leave to Supplement and Supplement to Motion for Reconsideration; Motion for Waiver of Procedural Requirements	View
7/6/2007	Motion	The Pipeline Consortium's response to the Agency's motion for reconsideration	View
7/3/2007	Motion	Supplement to the Pipeline Consortium's Motion for Production of Information (electronic filing)	View
6/29/2007	Motion	Pipeline Consortium's Motion for Production of Information (electronic filing)	View
6/25/2007	Motion	Agency Motion for Reconsideration; Appearance of Robb H. Layman (electronic filing)	View
6/15/2007	Hearing Officer	*Hearing Officer Order: Board to conduct two hearings: September 18 through September 28, 2007 in Springfield AND November 5 through November 16, 2007 in Chicago; pre-filed testimony for the first hearing filed by August 27, 2007 and pre-	View

		Order/Correspondence	field questions based on the testimony by September 10, 2007; for the second hearing prefile testimony filed by October 15, 2007, with questions based on the pre-filed testimony due by October 29, 2007; MAILBOX RULE DOES NOT APPLY	
			*Notice of Hearings: Scheduled September 18, 2007 through September 28, 2007 or until complete at 9:00 am at IEPA Office Building, Training Room 1214 West, 1021 N. Grand Avenue East, North Entrance AND November 5, 2007 through November 9, 2007 or until complete at 9:00 am at James R. Thompson Center, Room 2-025, 100 W. Randolph Street, Chicago, IL (Monday only) but continuing in the same building in Room 11-512 for the balance of the hearing	
6/15/2007	Hearing Officer	Order/Correspondence		View
6/11/2007	Other		*Letter from Illinois Department of Commerce and Economic Opportunity - declines to conduct a study of economic impact of proposed amendments	
6/5/2007	JCAR		*JCAR's First Notice Version for use in creating Second Notice Changes for Parts 211 and 217	
6/5/2007	JCAR		*JCAR Request for Analysis of Economic and Budgetary Effects of this Rulemaking	
6/5/2007	Sec. of State		*Notice of publication; Published in Ill. Reg. Vol. 31 Issue 23, p 7683, 7702 on June 8, 2007	
5/25/2007	Other		*Letter of May 23, 2007 from Acting Chairman Girard to Jack Lavin, Director, Department of Commerce and Economic Opportunity requesting an economic impact study concerning this rulemaking	View
5/17/2007	Order		Order of the Board by A. S. Moore :	View
5/11/2007	Prefiled Testimony		Agency's Prefiled Testimony of Robert Kaleel, Yoginder Mahajan, Scott Leopold, and Michael Koerber	View
5/11/2007	JCAR		*JCAR Request for Analysis of Economic and Budgetary Effects of this Rulemaking	View
5/9/2007	Sec. of State		*Notice of publication; Published in Ill. Reg. Vol. 31 Issue 18, p 6578, 6597 on May 4, 2007	
5/8/2007	Withdrawal of Appearance		Withdrawal of Appearance of Elizabeth A. Leifel for Pipeline Consortium (electronic filing)	View
5/8/2007	Response to Motion		Reply to Response to Objection to Use of Section 28.5 "Fast-Track" Rulemaking for the Illinois Environmental Protection Agency's Proposed Rules; Affidavit of Deirdre K. Hirner (electronic filing)	View
5/8/2007	Response to Motion		Reply to the Illinois Environmental Protection Agency's Responses to Objections to the Use of Section 28.5 Fast-Track Procedures in This Matter; Appearances of Kathleen C. Bassi, Stephen J. Bonebrake, Renee Cipriano, and Joshua R. More for ANR	View

		Pipeline Company, Kinder Morgan, Inc., Trunkline Gas Company and Panhandle Eastern Company (electronic filing)	
5/4/2007	Other	*Letter from Acting Chairman Girard to Jack Lavin, Director, Department of Commerce and Economic Opportunity requesting an economic impact study concerning this rulemaking	View
5/1/2007	Response to Motion	Agency Response to the Illinois Environmental Regulatory Group's Objection to Use of Section 28.5 Fast Track Procedures for Consideration of Nitrogen Oxide Proposal; Affidavit of Robert Kaleel (electronic filing)	View
5/1/2007	Response to Motion	Agency Response to the Pipeline Consortium's Objection to Use of Section 28.5 Fast Track Procedures for Consideration of Nitrogen Oxide Proposal; Affidavit of Robert Kaleel (electronic filing)	View
4/20/2007	Hearing Officer Order/Correspondence	*Notice of Hearings: Hearing scheduled for Monday, May 21, 2007, at 9:00 am at IEPA Office Building, North Entrance, Training Room, 1214 West, 1021 North Grand Avenue East, Springfield, IL continuing on through Friday, June 1, 2007 except for Monday, May 28, 2007 (Memorial Day) until business is complete AND Tuesday, June 19, 2007, at 10:00 am at Michael A. Bilandic Building, Auditorium, Room C-500, Fifth Floor, 160 N. LaSalle Street, Chicago, IL, continuing on until business is complete or through Friday, June 22, 2007, AND resuming, if necessary, at 10:00 am at James R. Thompson Center, Room 9-031, 100 West Randolph Street, Chicago, IL continuing on until business is complete AND IF NECESSARY, at 1:00 pm on Monday, July 2, 2007 at IEPA Office Building, North Entrance, Training Room, 1214 West, 1021 North Grand Avenue East, Springfield, IL continuing on until business is complete (except for the State Holiday on Wednesday July 4, 2007)*****Hearing Officer Order: On April 19, 2007, Board stated that until it rules on pending objections, it will proceed under requirements of Section 28.5 of the Act, objections must be filed by May 1, 2007, mailbox rule does not apply, Board directed objectors must reply to responses by May 8, 2007, mailbox rule does not apply; prefiled testimony for first hearing must be served by May 6, 2007, and must be submitted by May 11, 2007; prefiled testimony for second hearing must be served by June 3, 2007, and must be submitted by June 8, 2007; prefiled testimony for third hearing must be served by June 17, 2007, and must be	View

494

Katherine D. Hodge
 N. LaDonna Driver
 Gale W. Newton

Illinois Environmental Regulatory Group
 Interested Party 3150 Roland Avenue Springfield IL 62703 217/5 494 217/5 494

N. Ladonna Driver

Schiff Hardin, LLP
 Interested Party 6600 Sears Tower Chicago IL 60606-233 South Wacker Drive 312/2 550 312/2 560

Renee Cipriano
 Kathleen C. Bassi
 Joshua R. More
 Stephen J. Bonebrake

Total number of participant

Notice List [**Print Notice List**]

[**Top of Page**]

Party Name	Address	City & State	Phone
<u>Caterpillar Inc.</u> Interested Party	100 N.E. Adams Street	Peoria IL 61629	309/6 410 309/6 586
Bill Compton, Environmental Affairs			
<u>Chemical Industry Council of Illinois</u> Interested Party	400 West Monroe Suite 205	Springfield IL 62704	217/5 580 217/5 581
Mark A. Biel			
<u>Peoples Energy</u> Interested Party	130 East Randolph Drive	Chicago IL 60601	
Mike Jouras			
<u>Ameren Energy Generating Co.</u> Interested Party	1901 Chouteau Avenue	St. Louis MO 63103	314/5 206
Robert LaPlaca			
<u>Panhandle Eastern Pipe Line Company</u> Interested Party	5444 Westheimer 77056-5388 Box 1642	Houston TX 77251-1642	
Marc Phillips			
<u>Exxon Mobile Oil Corporation</u> Interested Party	1-55 & Arsenal Road East	Channahon IL 60410	815/5 775
Bob Elvert			
Brad Kohlmeyer			
<u>Illinois Municipal Electric Agency</u> Interested Party	919 South Spring St.	Springfield IL 62704	
Kevin Wagner			
<u>NICOR, Inc.</u> Interested Party	1844 Ferry Road	Naperville IL 60563	
Nancy Huston			

<u>Illinois Department of Natural Resources</u> Interested Party	One Natural Resources Way	Springfield IL 62702-1271	217/7 180 217/5 964
William Richardson, Chief Legal Counsel			
<u>Environmental Law & Policy Center</u> Interested Party	35 E. Wacker Suite 1300	Chicago IL 60601	312 795
Albert Ettinger, Senior Staff Attorney			
<u>URS Corp.</u> Interested Party	1701 Golf Road, Suite 1000	Rolling Meadows IL 60008	847-2 070
Michael Ander, Environmental Scientist			
<u>Sonnenschein Nath & Rosenthal LLP</u> Interested Party	8000 Sears Tower	Chicago IL 60606	312-8 615
Elizabeth A. Leifel			
<u>Sierra Club</u> Interested Party	122 W. Washington Avenue Suite 830	Madison WI 53703	608/2 499 608/2 351
Bruce Nilles, Attorney			
<u>ADM</u> Interested Party	1001 Brush College Road	Decatur IL 62526	
Pat Dennis			
<u>Illinois Petroleum Council</u> Interested Party	400 W. Monroe	Springfield IL 62704	
Ron Carooni			
<u>Stateside Associates</u> Interested Party	2300 Clarendon Blvd, 4th floor	Arlington VA 22201	703/5 746
Rima Idzelis			
<u>Illinois Environmental Protection Agency</u> Interested Party	1021 North Grand Avenue East, P.O. Box 19276	Springfield IL 62794	217/785
Gary Beckstead			
Bob Kaleel			
Jim Ross			
Rachel Doctors			
Shannon Bilbruck			
<u>Mostardi Platt Environmental</u> Complainant	1520 Kensington Rd. Suite 204	Oak Brook IL 60523	630-9 213
Tom Hiebart			
<u>United States Steel</u> Interested Party	1951 State Street	Granite City IL 62040	618/4 339
Larry Siebenberger			
<u>Northern Natural Gas</u> Interested Party	1111 South 103rd Street	Omaha NE 68124	
Greg Ammen			
<u>Kinder Morgan</u> Interested Party	370 Van Gordon Street	Lakewood CO 80228	303/9 757
Lisa Carty			
Dirk Cockran			
<u>Northern Border Company</u>		Omaha	402/4

Interested Party Ruth Jensen	13710 FNB Parkway	NE 68154	746
<u>ANR Pipeline Company</u> Interested Party	PO Box 2511	Houston TX 77001- 2511	
Manish Singh			
<u>Morris Cogeneration LLC</u> Interested Party	8805 N Tabler Road	Morris IL 60450	815/9 076
Steve Szobar			
<u>City Water Light and Power</u> Interested Party	800 East Monroe	Springfield IL 62757	217/7 211
P.S. Becker			
J. Willmore			
<u>Thelen Land & Gravel</u> Interested Party	28955 West Illinois Route 173	Antioch IL 60002	847/3 331
Chad Broge			
<u>Royster-Clark Nitrogen</u> Interested Party	16675 US Highway 20 W	East Dubuque IL 61025	815-7 310
Susan VonStein			
<u>IES Inc.</u> Interested Party	18363 Meander Drive	Grayslake IL 60030	
James McCarthy			
<u>University of Illinois</u> Interested Party	1501 S. Oak Street	Champaign IL	217/261
Betsy Liggett			
<u>University of Illinois at Chicago</u> Interested Party	1100 South Morgan	Chicago IL 60607	312/9 715
Ann Nguyen			
<u>Fred Weber, Inc.</u> Interested Party	2320 Creve Coeur Mill Road	Maryland Heights MO 63043	314/3 007
Genevieve Bodnar			
<u>Ted Bestor</u> Interested Party	1001 Louisiana Street	Houston TX 77002	713/4 424
*			

Total number of participant

Scheduled Hearings

[Top of Page]

Date / Time	Location	City &
Friday, November 16, 2007 9:00:00 AM	James R. Thompson Center, Room 11-512 (IPCB Conference Room)	Chicago
Thursday, November 15, 2007 9:00:00 AM	James R. Thompson Center, Room 11-512 (IPCB Conference Room)	Chicago
Wednesday, November 14, 2007 9:00:00 AM	James R. Thompson Center, Room 11-512 (IPCB Conference Room)	Chicago
Tuesday, November 13, 2007 9:00:00 AM	James R. Thompson Center, Room 11-512 (IPCB Conference Room)	Chicago
Friday, November 09, 2007	James R. Thompson Center, Room 2-025	Chicago

9:00:00 AM	Thursday, November 08, 2007	James R. Thompson Center, Room 2-025	Chicago
9:00:00 AM	Wednesday, November 07, 2007	James R. Thompson Center, Room 2-025	Chicago
9:00:00 AM	Tuesday, November 06, 2007	James R. Thompson Center, Room 2-025	Chicago
9:00:00 AM	Monday, November 05, 2007	James R. Thompson Center, Room 2-025	Chicago
9:00:00 AM	Friday, September 28, 2007	IEPA Office Building, Training Room 1214 West	Springf IL
9:00:00 AM	Thursday, September 27, 2007	IEPA Office Building, Training Room 1214 West	Springf IL
9:00:00 AM	Wednesday, September 26, 2007	IEPA Office Building, Training Room 1214 West	Springf IL
9:00:00 AM	Tuesday, September 25, 2007	IEPA Office Building, Training Room 1214 West	Springf IL
9:00:00 AM	Monday, September 24, 2007	IEPA Office Building, Training Room 1214 West	Springf IL
9:00:00 AM	Thursday, September 20, 2007	IEPA Office Building, Training Room 1214 West	Springf IL
9:00:00 AM	Wednesday, September 19, 2007	IEPA Office Building, Training Room 1214 West	Springf IL
9:00:00 AM	Tuesday, September 18, 2007	IEPA Office Building, Training Room 1214 West	Springf IL

Total number of hearing

Appeals on File

[Top of Page]

No Appeals Currently On File



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
FAST-TRACK RULES UNDER) **R07-18**
NITROGEN OXIDE (NO_x) SIP CALL:) **(Rulemaking - Air)**
AMENDMENTS TO 35 ILL.)
ADM. CODE SECTION 201.146,)
AND PARTS 211 AND 217)

NOTICE

TO:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the attached MOTION TO WITHDRAW TESTIMONY, MOTION TO AMEND TESTIMONY, AND AMENDED TESTIMONY OF ROBERT KALEEL AND YOGINDER MAHAJAN of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: /s/ Rachel L. Doctors
Rachel L. Doctors
Assistant Counsel
Division of Legal Counsel

DATED: May 18, 2007

P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
FAST-TRACK RULES UNDER) **R07-18**
NITROGEN OXIDE (NO_x) SIP CALL:) **(Rulemaking - Air)**
AMENDMENTS TO 35 ILL.)
ADM. CODE SECTION 201.146,)
AND PARTS 211 AND 217)

MOTION TO WITHDRAW TESTIMONY

NOW COMES the Proponent, the Illinois Environmental Protection Agency (Illinois EPA), by its attorneys, and pursuant to 35 Ill. Adm. Code 101.500 and 102.402, hereby requests that the Illinois Pollution Control Board (Board) grant the Illinois EPA leave to withdraw the testimony of Michael Koerber and Scott Leopold. In support of this Motion, the Illinois EPA states as follows:

1. On April 20, 2007, following the filing by the Illinois EPA of its proposal entitled, "Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Section 201.146, and Parts 211 and 217," the Hearing Officer entered an order scheduling hearings and dates for pre-filing testimony. The first hearing is scheduled for May 21, 2007, with service by the Illinois EPA of prefiled testimony required by May 11, 2007.

2. Since the filing of the Illinois EPA's testimony on May 11th, the Board ruled on the Opponents' Objections to the use of fast-track rulemaking procedures for the Illinois EPA's above proposal and entered an order bifurcating the rulemaking into two dockets. The order included the acknowledgement that the hearing scheduled for Monday, May 21, 2007, would concern only engines affected by the NO_x SIP Call Phase II requirements. This significantly narrowed the scope of the hearing scheduled for May 21st on R07-18.

3. The testimony of Michael Koerber and Scott Leopold is outside of the narrow scope of R07-18, and consequently will more appropriately be addressed under the new docket R07-19, as portions of the testimony concerned issues besides the control of large engines as required by the NO_x SIP Call Phase II. The Illinois EPA is requesting that the testimony of Michael Koerber and Scott Leopold be withdrawn.

4. Although the timing of this request is quite short, only one business day before the scheduled hearing, withdrawal of this testimony was not justified until issuance of the Board's Order to bifurcate the original proposed rulemaking. Further, it is commensurate with the narrow scope of the rulemaking and will facilitate a hearing more focused on the relevant issues. It will also conserve scarce resources, as the Illinois EPA will no longer be required to produce a witness not located in Springfield or a witness not normally scheduled to work on the hearing date.

WHEREFORE, for the reasons stated above, the Illinois EPA hereby respectfully requests that the Board grant the Illinois EPA's Motion to Withdraw Testimony.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: /s/ Rachel L. Doctors
Rachel L. Doctors
Assistant Counsel
Division of Legal Counsel

DATED: May 18, 2007

P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143(TDD)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
FAST-TRACK RULES UNDER) **R07-18**
NITROGEN OXIDE (NO_x) SIP CALL:) **(Rulemaking - Air)**
AMENDMENTS TO 35 ILL.)
ADM. CODE SECTION 201.146,)
AND PARTS 211 AND 217)

MOTION TO AMEND TESTIMONY

NOW COMES the Proponent, the Illinois Environmental Protection Agency (Illinois EPA), by its attorneys, and pursuant to 35 Ill. Adm. Code 101.500 and 102.402, hereby requests that the Illinois Pollution Control Board grant the Illinois EPA leave to amend the testimony of Robert Kaleel and Yoginder Mahajan. In support of this Motion, the Illinois EPA states as follows:

1. On April 20, 2007, following the filing by the Illinois EPA of its proposal entitled, "Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Section 201.146, and Parts 211 and 217," the Hearing Officer entered an order scheduling hearings and dates for pre-filing testimony. The first hearing is scheduled for May 21, 2007, with service by the Illinois EPA of prefiled testimony required by May 11, 2007.
2. Since the filing of the Illinois EPA's testimony on May 11th, the Board ruled on the Opponents' Objections to the use of fast-track rulemaking procedures for the Illinois EPA's above proposal and entered an order bifurcating the rulemaking into two dockets. The order included the acknowledgement that the hearing scheduled for Monday, May 21, 2007, would concern only engines affected by the NO_x SIP Call Phase II requirements. This significantly narrowed the scope of the hearing scheduled for May 21st on R07-18.

3. The testimony of Robert Kaleel and Yoginder Mahajan contained information that is now outside of the narrow scope of R07-18, and consequently will more appropriately be addressed under the new docket R07-19, as portions of the testimony concerned issues besides the control of large engines as required by the NO_x SIP Call Phase II. The Illinois EPA is requesting that it may be allowed to file amended testimony for Robert Kaleel and Yoginder Mahajan addressing the more limited scope of Monday's hearing..

4. Although the timing of this request is quite short, only one business day before the scheduled hearing, revision of this testimony is was not justified until issuance of the Board's order to bifurcate the original proposed rulemaking. Further, it is commensurate with the narrow scope of the rulemaking and will facilitate a hearing more focused on the issues contained in R07-18.

WHEREFORE, for the reasons stated above, the Illinois EPA hereby respectfully requests that the Board grant the Illinois EPA's Motion to File Amended Testimony.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: /s/ Rachel L. Doctors
Rachel L. Doctors
Assistant Counsel
Division of Legal Counsel

DATED: May 18, 2007

P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143(TDD)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
STATIONARY RECIPROCATING)	R07-18
INTERNAL COMBUSTION)	(Rulemaking - Air)
ENGINES AND TURBINES:)	
AMENDMENTS TO 35 ILL.)	
ADM. CODE SECTION 201.146,)	
AND PARTS 211 AND 217)	

TESTIMONY OF ROBERT KALEEL

My name is Robert Kaleel. I am the Manager of the Air Quality Planning Section, Division of Air Pollution Control, Bureau of Air at the Illinois Environmental Protection Agency ("Illinois EPA"), Springfield, Illinois. I have a Bachelor of Science degree in meteorology from Northern Illinois University. I have worked at the Illinois EPA for more than twenty-six years, and have been in my present position since 2004. Prior to that, I was the Manager of the Air Quality Modeling Unit in the Air Quality Planning Section, a position that I held for more than fifteen years. I have also worked as a private consultant as a specialist in air quality modeling. As Manager of the Air Quality Planning Section, my responsibilities include oversight of staff that provides technical support for regulatory initiatives needed to address air quality issues in Illinois, including the regulatory proposal before the Board at this hearing. The Air Quality Planning Section also provides technical support to the Bureau of Air's permitting and enforcement functions, and is responsible for maintaining the Bureau's emission inventory system, including Annual Emission Reports. I have been closely involved with the development

of Illinois' State Implementation Plans to address the PM_{2.5} and ozone nonattainment areas in Illinois.

The purpose of my testimony is to explain the purpose of this proposal, and to describe the components of the proposed rule. Included in this proposal are amendments to 35 Ill. Adm. Code Part 217. Adoption of the proposed rules will reduce emissions of nitrogen oxides ("NO_x") from certain stationary reciprocating internal combustion engines. This proposal is intended to satisfy Illinois' obligations under the United States Environmental Protection Agency's ("USEPA") NO_x State Implementation Plan ("SIP") Call Phase II.

On July 18, 1997, USEPA promulgated revised primary and secondary ozone NAAQS that increased the averaging period for the ozone standard from 1-hour to 8-hour and lowered the concentration for violations from 0.12 to 0.08 parts per million ("ppm"). It has long been recognized that volatile organic compounds ("VOC") and NO_x are the primary precursors responsible for the formation of ground level ozone. Illinois has two areas (greater Chicago and Metro East/St. Louis), consisting of 12 counties or partial counties, that were designated as nonattainment areas for the 8-hour ozone standard. The designations were effective on June 15, 2004. The two areas in Illinois are classified as moderate nonattainment areas. Moderate nonattainment areas are required to submit attainment demonstrations by June 15, 2007, addressing how the State will achieve the 8-hour ozone standard by the attainment date of June 15, 2009, which is six years from the effective date of the nonattainment designations.

On July 18, 1997, USEPA also added a new 24-hour and a new annual NAAQS for fine particles, using as the indicator particles with aerodynamic diameters smaller than a nominal 2.5 micrometers, termed PM_{2.5}. USEPA has determined that, in addition to direct particulate matter, that NO_x, SO₂, VOCs, and ammonia are precursors to the formation of PM_{2.5}. States are required

to address NO_x, sulfur dioxide (“SO₂”), and direct emissions of PM_{2.5} in their attainment plans. USEPA has designated two areas in Illinois (greater Chicago and Metro East/St. Louis), consisting of 12 counties or partial counties within Illinois, as not attaining the PM_{2.5} standard. The designations became effective on April 5, 2005. The attainment demonstration is due April 5, 2008, and the attainment date for most areas is April 5, 2010. States may be granted up to a five-year extension of the attainment date with a demonstration showing that it is impractical for the state to attain within five years and that the state is making generally linear progress toward attainment.

Control of NO_x SIP Call engines, as well as other sources of NO_x, is an important and necessary part of Illinois’ attainment strategy for ozone and PM_{2.5}. The geographic region subject to “Subpart Q: Stationary Reciprocating Internal Combustion Engines and Turbines” is the entire State of Illinois. Emissions of NO_x from stationary internal combustion engines are not currently regulated in the State of Illinois. There are 28 existing engines that were identified by the NO_x SIP Call that will be subject to this rule. The estimated reduction of NO_x emissions from the 28 engines identified by the NO_x SIP Call is 5,422 tons per ozone season. The NO_x SIP Call does not require any emission reductions on an annual basis.

U.S. EPA has determined that affected engines can meet the requirements of the NO_x SIP Call through a combination of control techniques such that compliance is both technically feasible and economically reasonable. The Illinois EPA agrees with U.S. EPA’s finding that the control requirements of this proposal are technically feasible and economically reasonable.

The proposal being considered today is the result of an extensive stakeholder process. Throughout the development of the rule, the Illinois EPA has sought and received comments from interested parties. The Illinois EPA held three general meetings (August 25, 2005, October

5, 2005, and November 14, 2005) to which owners and operators of affected units and environmental groups were invited. At least three additional meetings were held at the request of particular groups or companies affected by this proposal. The Illinois EPA's proposal was amended several times in response to comments provided by stakeholders.

The Illinois EPA proposal includes separate concentration limits for rich-burn and lean-burn engines. The proposal also allows owners and operators the option to comply with an emissions averaging plan in lieu of meeting the specified concentration limit for each affected unit. Units located in Illinois that commenced operation before January 1, 2002, and are owned by the same company or parent company, can in most cases be included in an averaging plan. An averaging plan must insure that the total mass of actual NO_x emissions from all affected units included in the emissions averaging plan must be less than the total mass of allowable NO_x emissions for the same units. The proposal contains specific formulas for making the calculations needed to demonstrate compliance. This option will allow owners to control units that are most cost effective to control, and reduce or avoid control costs for units that are more expensive to control.

According to the NO_x SIP Call, affected engines listed in Appendix G must comply by May 1, 2007. Since that date has already passed, the Illinois EPA is recommending that the compliance date in Section 217.392 be amended to January 1, 2008.

The Illinois EPA's proposal provides a flexible approach for meeting the requirements for testing and monitoring. In general, affected units must conduct a compliance test by the applicable compliance date. Affected units that operate intermittently do not need to be tested until after they have operated at least 876 hours in a year. Units that operate less than 876 hours

per calendar year can be tested at the owner's or operator's choosing any time within the first five years after the applicable compliance date.

Units listed in Appendix G and other units included in an emissions averaging plan must subsequently be tested once every five years. In years in which a compliance test is not performed, the proposal requires that an inexpensive portable NO_x monitor be used annually to verify continued compliance. For units that operate less than 876 hours per calendar year monitoring is required only once every five years.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED STATIONARY) **R07-18**
RECIPROCATING INTERNAL) **(Rulemaking – Air)**
COMBUSTION ENGINES AND)
TURBINES: AMENDMENTS TO 35 ILL.)
ADM. CODE SECTION 201.146,)
AND PARTS 211 AND 217)

TESTIMONY OF YOGINDER MAHAJAN

Good Morning. My name is Yoginder Mahajan. I am employed as an Environmental Protection Engineer in the Air Quality Planning Section in the Bureau of Air of the Illinois Environmental Protection Agency (Illinois EPA). I have been employed in this capacity since March 1992. Prior to my employment with the Illinois EPA I worked for various metal fabrication industries for nine (9) years. My educational background includes a Bachelor of Engineering Degree in Mechanical Engineering from Bhopal University at Bhopal, India.

As part of my regular duties in the Air Quality Planning Section, I have been involved with preparing emission estimates for various source categories used in the development of the 1990 ozone season weekday emissions inventories; evaluating control technologies applicable to volatile organic material (VOM) emissions sources utilized in the preparation of the Rate-of-Progress plans for the Chicago and St. Louis ozone nonattainment areas; and assisting in the development of regulations for the control of VOM emissions from source categories included in the Rate-of-Progress plans. Regarding the proposal before you today, I have been involved in the development of the regulations to control nitrogen oxides (NOx) from stationary reciprocating internal combustion engines (RICE). I provided the list of affected sources for the

proposal and technical feasibility of NOx controls for the Technical Support Document (TSD) for the proposal.

Internal combustion engines are used throughout the United States to drive compressors, pumps, electric generators and other equipment. In Illinois, a prominent use of large engines is to drive natural gas pipeline compressors. Emissions of NOx are the result of combustion of fuel at high temperatures and pressures in the RICE, which cause the nitrogen and oxygen in the air that sustains the combustion to unite and form the various oxides of nitrogen that constitute NOx.

Today's proposal is to control NOx emissions from sources that are impacted by the NOx SIP Call Phase II. NOx SIP Call requires NOx emission controls on internal combustion engines that emitted one ton or more of NOx in 1995 summer day. The required levels of NOx emissions controls are 82 percent NOx emissions reduction from natural gas-fired engines, and 90 percent NOx emission reduction from all other (diesel and dual fuel) internal combustion engines.

As part of evaluation of controlling NOx emissions from RICE, the Illinois EPA identified several sources of guidance. The United States Environmental Protection Agency (U.S. EPA) published an Alternative Control Techniques (ACT) document - NOx Emissions from Stationary Reciprocating Internal Combustion engines. Also, U.S. EPA published Regulatory Impact Analysis for the NOx SIP Call, and Stationary Reciprocating Internal Combustion Engines Technical Support documents for the NOx SIP Call. Controlling Nitrogen Oxides Under the Clean Air Act: A Menu of Option document was published by State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Official. These documents contain detailed information on description of sources of NOx emissions, various techniques of controlling NOx and the costs of various controls. The Illinois

EPA relied upon the information contained in these documents for the costs and economic impacts for this proposal.

For RICE both combustion controls and post-combustion catalytic reduction have been developed. For reciprocating engines, air/fuel ratio adjustments, low emission combustion, and prestratified charge all function by modifying the combustion zone air/fuel ratio, thus influencing oxygen availability and peak flame temperature. Ignition timing retard lowers the peak flame temperature by delaying the onset of combustion. Selective catalytic reduction and non-selective catalytic reduction are the two post-combustion control strategies that destroy NO_x once it has been formed for reciprocating internal combustion engines. After reviewing the U.S. EPA's guidance documents, the Illinois EPA determined that there are cost effective NO_x control techniques available to reduce NO_x emissions from RICE.

The Illinois EPA identified 28 RICE impacted by the NO_x SIP Call Phase II that each emitted one ton or more of NO_x in 1995 summer day. The proposed regulations will reduce NO_x emissions by 5,422 tons per ozone season from 28 RICE in 2007 ozone control season and satisfy the U.S. EPA's NO_x SIP Call Phase II requirements for RICE. Attachment B to the TSD contains list of the sources and the associated NO_x emissions reductions from each of the impacted RICE.

The Illinois EPA relied upon the economic impact analysis of the NO_x SIP call performed by U.S. EPA. In regulatory impact analysis for the NO_x SIP Call, U.S. EPA determined that average cost of controlling NO_x emissions in an ozone season from RICE at 90 percent reduction, in the NO_x SIP Call region (including Illinois), would be \$1,215 (1990 dollars) per ton of NO_x reduces. TSD at 40 and 41. However, U.S. EPA issued updated results of cost and sensitivity analysis in the technical support document for the NO_x SIP Call. TSD Ref. 12 at 34. The Illinois EPA reviewed this information and determined that cost of controlling natural gas-fired

RICE impacted by the NO_x SIP call in ozone season would be \$552 (1990 dollars) per ton of NO_x reduced. The cost of controlling RICE annually will be even lower than controlling RICE in the ozone season only.

SERVICE LIST

R 07-18

Timothy Fox, Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60606

Gale Newton
3150 Roland Avenue
PO Box 5776
Springfield, Illinois 62794-9276

Virginia I. Yang, Deputy Counsel
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271

Illinois Environmental Regulatory Group
N. Ladonna Driver
3150 Roland Avenue
Springfield, Illinois 62703

Schiff Hardin LLP
Renee Cipriano
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6473

Schiff Hardin LLP
Joshua More
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6473

Schiff Hardin LLP
Kathleen Bassi
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6473

Schiff Hardin LLP
Stephen Bonebrake
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6473

Hodge Dwyer Zeman
Katherine Hodge
3150 Roland Avenue
PO Box 5776
Springfield, Illinois 62794-9276

Matthew Dunn
Illinois Attorney General Office
Environmental Control Division
James R. Thompson Center
100 West Randolph Street
Chicago, Illinois 60601

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 13th day of July, 2007, I have served electronically the attached **PIPELINE CONSORTIUM'S RESPONSE TO THE AGENCY'S MOTION FOR RECONSIDERATION OF HEARING OFFICER ORDER and AFFIDAVIT OF KATHLEEN C. BASSI** upon the following persons:

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

and electronically and by first class mail, postage affixed on Persons included on the **ATTACHED SERVICE LIST.**



Kathleen C. Bassi

Renee Cipriano
Kathleen C. Bassi
Stephen J. Bonebrake
Joshua R. More
SCHIFF HARDIN, LLP
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
312-258-5500
Fax: 312-258-5600

SERVICE LIST
(R07-19)

Timothy Fox
Hearing Officer
ILLINOIS POLLUTION CONTROL BOARD
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
foxt@ipcb.state.il.us

John Kim
Rachel Doctors
Robb H. Layman
Division of Legal Counsel
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
john.j.kim@illinois.gov
rachel.doctors@illinois.gov
robb.layman@illinois.gov

Katherine D. Hodge
N. LaDonna Driver
Gale W. Newton
HODGE DWYER ZEMAN
3150 Roland Avenue
P.O. Box 5776
Springfield, Illinois 62705-5776
khodge@hdzlaw.com
nldriver@hdzlaw.com
gnewton@hdzlaw.com

William Richardson, Chief Legal Counsel
Virginia I Yang, Deputy Counsel
ILLINOIS DEPARTMENT OF NATURAL
RESOURCES
One Natural Resources Way
Springfield, Illinois 67202-1271
bill.richardson@illinois.gov
virginia.yang@illinois.gov