

R07-02,11

From: "Stefanie Diers" <Stefanie.Diers@illinois.gov>
To: "Mike McCambridge" <mccambridge@ipcb.state.il.us>
Date: 7/18/2007 2:14:55 PM
Subject: Re: comments on 611

Mike:

I put the documents in the mail today.

Thanks.

Stefanie

Stefanie N. Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
217-782-5544

>>> "Mike McCambridge" <mccambridge@ipcb.state.il.us> 7/17/2007 6:56 PM
>>>

John Therrieault, Assistant Clerk of the Board: Please print a copy of this e-mail and docket it as an attachment to PC 2 from the Agency. Request instruction from Kathleen Crowley or me, if necessary, as to how you should describe it on the docket sheet.

Ms. Diers:

One element in the Agency comments would require the incorporation of Agency documents by reference. The Administrative Procedure Act requires the Board to maintain a copy on file of each document incorporated by reference. You have not submitted either document or directed the Board to where we might obtain a copy by download from the Internet. You must do so before the Board can consider adding the incorporation that you request. Please send copies or direct our attention to where I might find them. The documents are the following, as cited in your comments filed July 9:

"Guidance Document for Groundwater Protection Needs Assessments," Illinois Environmental Protection Agency, Illinois State Water Survey, and Illinois State Geologic Survey Joint Report, January 1195.

"The Illinois Wellhead Protection Program Pursuant to Section 1428 of the Federal Safe Drinking Water Act," Illinois Environmental Protection Agency, #22480, October 1992.

I see two references on page 1 of your comments to 415 ILCS 5/17.2. I see no references to 415 ILCS 5/17.1 or 17.3. Thus, I miss the point of your e-mail requesting correction of a reference to 415 ILCS 5/17.3 to 415 ILCS 5.17.1. Please correct me and redirect my attention if I err and have missed the reference.

Please respond promptly if you deem it necessary to respond. This matter is on the Agenda for adoption at the July 26 meeting. I can assemble a draft opinion and order for Board consideration that would include your suggested incorporations by reference without first receiving a copy of the needed documents. Before I would do so, however, I need to receive some indication from you that you will promptly submit the needed document to me. Nevertheless, the Board cannot adopt any amendments that would include the incorporations by reference and file them with the Office of the Secretary of State, unless I have first received the required copies of the documents in some form that they can be open to public inspection and copying. I will need to remove any incorporations by reference from the text before any Board vote to adopt the amendments if I do not have the referenced two documents.

I can request that the Board defer its consideration of the amendments until you can provide the needed copies if you want me to do so. I will need some reasonable estimate from you as to when you anticipate submitting the documents to me. Any delay in Board consideration beyond July 26 will require the Board to extend the deadline for adoption at the July 26 meeting.

If you do not respond to me by early next week, I will proceed with the assumption that you have decided not to submit the needed documents to me, and I will proceed accordingly.

Thanks

Michael J. McCambridge
Attorney
Illinois Pollution Control Board
312-814-6924

>>> "Stefanie Diers" <Stefanie.Diers@illinois.gov> 7/16/2007 9:42 AM
>>>

Hi Mike. Rick Cobb just brought to my attention that in our comments for "well head protection" we cite to 17.3 and its should be 17.1. Sorry for any confusion.

Thanks.

Stefanie

Stefanie N. Diers
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