

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
TRIENNIAL REVIEW OF SULFATE AND)
TOTAL DISSOLVED SOLIDS WATER)
QUALITY STANDARDS: PROPOSED)
AMENDMENTS TO 35 ILL. ADM. CODE) R07-9
302.102(b)(6), 302.102(b)(8), 302.102(b)(10),) (Rulemaking – Water)
302.208(g), 309.103(c)(3), 405.109(b)(2)(A),)
409.109(b)(2)(B), 406.100(d); REPEALER OF)
35 ILL. ADM. CODE 406.203 and Part 407;)
and PROPOSED NEW 35 ILL. ADM. CODE)
302.208(h))

NOTICE OF FILING

TO: Mr. John Therriault Ms. Marie E. Tipsord
Assistant Clerk of the Board Hearing Officer
Illinois Pollution Control Board Illinois Pollution Control Board
100 West Randolph Street 100 West Randolph Street
Suite 11-500 Suite 11-500
Chicago, Illinois 60601 Chicago, Illinois 60601
(VIA ELECTRONIC MAIL) **(VIA U.S. MAIL)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the **MOTION FOR LEAVE TO REPLY TO ILLINOIS EPA'S RESPONSE TO IERG'S COMMENTS**, and **EXHIBIT** thereto, a copy of which is herewith served upon you.

Respectfully submitted,

Dated: February 26, 2008

By: /s/ Katherine D. Hodge
Katherine D. Hodge

Katherine D. Hodge
Monica T. Rios
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, certify that I have served the attached
MOTION FOR LEAVE TO REPLY TO ILLINOIS EPA'S RESPONSE TO IERG'S
COMMENTS, and EXHIBIT thereto upon:

Mr. John Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

via electronic mail on February 26, 2008; and upon:

Ms. Marie E. Tipsord
Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Sanjay K. Sofat, Esq.
Assistant Counsel
Illinois Environmental
Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

Mr. Kenneth W. Liss
Andrews Environmental Engineering
3300 Ginger Creek Drive
Springfield, Illinois 62711

Ms. Elizabeth Steinhour
Weaver Boos Consultant, Inc.
2021 Timberbrook Lane
Springfield, Illinois 62702

Albert Ettinger, Esq.
Senior Staff Attorney
Environmental Law & Policy Center
35 East Wacker Drive
Suite 1300
Chicago, Illinois 60601

by depositing said documents in the United States Mail in Springfield, Illinois, postage
prepaid, on February 26, 2008.

/s/ Katherine D. Hodge
Katherine D. Hodge

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
TRIENNIAL REVIEW OF SULFATE AND)
TOTAL DISSOLVED SOLIDS WATER) R07-9
QUALITY STANDARDS: PROPOSED) (Rulemaking – Water)
AMENDMENTS TO 35 ILL. ADM. CODE)
302.102(b)(6), 302.102(b)(8),)
302.102(b)(10), 302.208(g), 309.103(c)(3),)
405.109(b)(2)(A), 409.109(b)(2)(B),)
406.100(d); REPEALER OF 35 ILL. ADM.)
CODE 406.203 and Part 407; and)
PROPOSED NEW 35 ILL. ADM.)
CODE 302.208(h))

**MOTION FOR LEAVE TO REPLY TO
ILLINOIS EPA'S RESPONSE TO IERG'S COMMENTS**

NOW COMES the ILLINOIS ENVIRONMENTAL REGULATORY GROUP ("IERG"), by and through its attorneys, HODGE DWYER ZEMAN, and moves the Illinois Pollution Control Board ("Board") for leave to file its Reply to Illinois EPA's Response to IERG's Comments. In support of this Motion, IERG states as follows:

1. On December 3, 2007, IERG filed First Notice comments ("First Notice Comments") in the above-referenced matter.
2. On December 28, 2007, the Illinois Environmental Protection Agency ("Illinois EPA") filed a Response to IERG's First Notice Comments.
3. As of the filing of this Motion, the Board has not issued a Second Notice Opinion and Order.
4. Since the Second Notice period has yet to commence, neither the Illinois EPA nor any other interested parties will be materially prejudiced if the Board allows IERG to file a brief Reply (attached hereto as Exhibit A) to Illinois EPA's Response.

WHEREFORE, the ILLINOIS ENVIRONMENTAL REGULATORY GROUP, respectfully prays that the Illinois Pollution Control Board grant it leave to file its Reply to Illinois EPA's Response (attached hereto as Exhibit A) instanter, and that the Illinois Pollution Control Board grant all other relief just and proper in the premises.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

By: /s/ Katherine D. Hodge
One of its Attorneys

Dated: February 26, 2008

Katherine D. Hodge
Monica T. Rios
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

IERG:001/RDkt/Filings/R07-09/Motion for Leave to File Reply

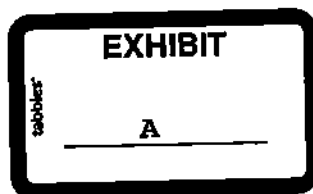
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
TRIENNIAL REVIEW OF SULFATE AND)
TOTAL DISSOLVED SOLIDS WATER) R07-9
QUALITY STANDARDS: PROPOSED) (Rulemaking – Water)
AMENDMENTS TO 35 ILL. ADM. CODE)
302.102(b)(6), 302.102(b)(8),)
302.102(b)(10), 302.208(g), 309.103(c)(3),)
405.109(b)(2)(A), 409.109(b)(2)(B),)
406.100(d); REPEALER OF 35 ILL. ADM.)
CODE 406.203 and Part 407; and)
PROPOSED NEW 35 ILL. ADM.)
CODE 302.208(h))

REPLY TO ILLINOIS EPA'S RESPONSE TO IERG'S COMMENTS

NOW COMES the ILLINOIS ENVIRONMENTAL REGULATORY GROUP (“IERG”), by and through its attorneys, HODGE DWYER ZEMAN, and for its Reply to Illinois EPA’s Response to IERG’s Comments, states as follows:

1. On December 3, 2007, IERG filed First Notice comments (“First Notice Comments”) in the above-referenced matter. The First Notice Comments were filed in response to the Illinois Pollution Control Board’s (“Board”) encouragement that “participants . . . provide additional comment on the economic reasonableness and technical feasibility of the entire proposed rule.” First Notice Opinion and Order, *In the Matter of: Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments to 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 409.109(b)(2)(B), 406.100(d); Repealer of 35 Ill. Adm. Code 406.203 and Part 407; and Proposed New 35 Ill. Adm. Code 302.208(h)*, R07-9, 31 (Ill.Pol.Control.Bd. Sept. 20, 2007) (hereinafter this rulemaking will be cited as “*Triennial Review*”).



2. The First Notice Comments addressed the Illinois Environmental Protection Agency's ("Illinois EPA") obligation pursuant to Section 27 of the Illinois Environmental Protection Act, 415 ILCS 5/27, to provide an economic analysis to the Board in order for the Board to fully take into consideration the economic impact of Illinois EPA's proposal. Comments of IERG, *Triennial Review*, R07-9 (Ill.Pol.Control.Bd. Dec. 2, 2007). In addition, IERG had previously addressed Illinois EPA's lack of economic justification for the proposed rule in its post hearing comments filed on June 7, 2007. IERG's Comments, *Triennial Review*, R07-9 (Ill.Pol.Control.Bd. June 7, 2007).

3. On December 28, 2007, Illinois EPA filed a Response to IERG's Comments ("Response"). Illinois EPA's Response did not address its obligation to provide an analysis of the economic impact of the proposed rule for the Board's consideration. Response of IEPA to IERG's Comments, *Triennial Review*, R07-9 (Ill.Pol.Control.Bd. Dec. 28, 2007).

4. As of the filing of this Reply, IERG maintains that Illinois EPA still appears neither to have addressed the deficiency of its proposal in this respect nor provided any explanation for not doing so.

5. IERG appreciates the opportunity to participate in this proceeding, and respectfully requests that the Board take these additional comments into consideration.

* * *

IERG reserves the right to supplement and modify this Reply.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

By: /s/ Katherine D. Hodge
One of its Attorneys

Dated: February 26, 2008

Katherine D. Hodge
Monica T. Rios
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

IERG:001/RDockets/Fil/R7-09 - Sulfate Reply