

Electronic Filing - Received, Clerk's Office, June 12, 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
WATER QUALITY STANDARDS AND) R08-9
EFFLUENT LIMITATIONS FOR THE) (Rulemaking - Water)
CHICAGO AREA WATERWAY SYSTEM)
AND THE LOWER DES PLAINES RIVER:)
PROPOSED AMENDMENTS TO 35 Ill.)
Adm. Code Parts 301, 302, 303 and 304)
)

NOTICE OF FILING

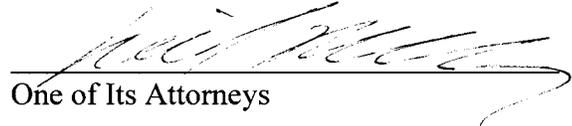
To: ALL COUNSEL OF RECORD
(Service List Attached)

PLEASE TAKE NOTICE that on the 12th day of June, 2008, I filed with the Office of the Clerk of the Illinois Pollution Control Board the attached Metropolitan Water Reclamation District of Great Chicago's Motion to Stay IPCB R08-9, copies of which are hereby served upon you.

Dated: June 12, 2008

**METROPOLITAN WATER RECLAMATION
DISTRICT OF GREATER CHICAGO**

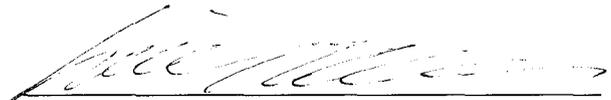
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CERTIFICATE OF SERVICE

I, David T. Ballard, the undersigned attorney, hereby certify that I have served the attached Metropolitan Water Reclamation District of Great Chicago's Motion to Stay IPCB R08-9, on All Counsel of Record (Service List Attached), by depositing said documents in the United States Mail, postage prepaid, from One North Wacker Drive, Suite 4400, Chicago, Illinois before the hour of 5:00 p.m., on this 12th Day of June, 2008.


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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Adm. Code Parts 301, 302, 303 and 304)

**METROPOLITAN WATER RECLAMATION DISTRICT OF
GREATER CHICAGO'S MOTION TO STAY IPCB R08-9**

Pursuant to 35 Ill. Adm. Code 101.514, the Metropolitan Water Reclamation District of Greater Chicago (the 'District') respectfully submits this Motion to Stay the rulemaking proceedings in the above-captioned case. In support of this Motion, the District states as follows:

I. OVERVIEW OF REASONS FOR STAY

The District takes very seriously its obligations to protect public health and the environment. The District has spent large amounts of money, time and resources to improving water quality in the Chicago Area Waterways System ('CAWS'), and will continue to do so. When IEPA started the process of developing new water quality standards for the CAWS, the District got involved, and agreed to perform several extensive studies, at its own expense, to assist in that process. However, when the rule development stakeholder process was stopped and a proposed rule came out, the District found that the proposal had changed in significant ways from earlier discussions. Also, the proposal ignored the fact that major studies, which could change the IEPA recommendations and provide the Board with essential information for its decisions, are still ongoing.

The District has participated actively in the hearings on the proposed rule. Those hearings have shown that the proposal has major problems - scientific, legal and policy. It could

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result in the expenditure of billions of dollars, which would have to be paid largely by the District's taxpayers, and could also result in a larger carbon footprint and other adverse environmental impacts, without any demonstration that it will bring about any appreciable improvement in water quality or benefit to public health. At this point, the District believes that the best course of action as to the rulemaking is to suspend the process, while IEPA goes back to fill in the significant gaps in the basis for its proposal and consults with stakeholders as to these unresolved issues. The studies that are ongoing will be very helpful in filling in the gaps, so the final regulatory decisions should await the results of those studies. In this Motion, the District asks that the Board issue a stay of this rulemaking proceeding, to last until those studies are completed and the results can be taken into account in a dialogue among the stakeholders. The stakeholder process that was terminated by the initiation of this rulemaking should resume, and the parties should be directed to submit quarterly status reports to the Board, to ensure that progress continues toward resolution of the outstanding issues and completion of the rulemaking.

Under the current schedule for this proceeding, the next round of detailed testimony by witnesses is scheduled to begin on September 8, 2008, with prefiled testimony due on August 4, 2008. If this process is going to be stayed for some period of time, so the Agency can repair the deficiencies in its proposal, then it makes little sense for the parties to proceed with preparation of detailed testimony on the proposal as it currently stands. Therefore, the District requests that the Board stay the schedule for submittal of testimony until after the Board has ruled on this Motion for Stay.

II. PROCEDURAL HISTORY

1. On October 26, 2007, the Illinois Environmental Protection Agency ("IEPA") filed a Motion for Acceptance with the Illinois Pollution Control Board (the "Board") for a hearing on

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IEPA's proposal to amend 35 Ill. Adm. Code Parts 301, 302, 303, and 304 (IEPA's Proposal). Generally, IEPA's Proposal will amend the water quality standards for the Chicago Area Waterways System (CAWS) and the Lower Des Plaines River, to revise the designated uses and the criteria necessary to protect those uses.

2. On November 1, 2007, the Board granted IEPA's Motion for Acceptance.

3. On November 16, 2007, the District entered an appearance to participate in the public hearing process. The first hearing was scheduled for January 28, 2008. The District submitted pre-filed questions for IEPA on January 18, 2008, and has participated in the hearings that have been held on the proposed rules.

4. The Board has held a total of ten days of hearings on IEPA's Proposal, the most recent hearing taking place on April 23-24, 2008. In those hearings, IEPA presented its witnesses, and the other parties questioned those witnesses.

5. As a result of the substantial deficiencies in IEPA's Proposal that are described below, during the April 23-24, 2008 public hearing, the District and other parties requested that the hearing officer stay the proceedings to allow all parties an opportunity to receive, review, and submit forthcoming studies that will help reconcile IEPA's significant analytical discrepancies. These studies would provide IEPA with additional data needed to fill critical information gaps and allow IEPA to conduct a more rigorous analysis, using information from the forthcoming studies for, among other things, better defining the attainable uses, developing the appropriate water quality standards for those uses, and evaluating the economic reasonableness of the proposed water quality standards.

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6. In response to the parties' request for a stay to incorporate these studies at the April 23-24, 2008 hearing, the hearing officer ordered that all motions to stay the proceedings must be filed with the Board, rather than directed to the hearing officer.

7. A further hearing is currently set for June 16, 2008, to hear public testimony. Additional hearings have been set for six days in September 2008, for presentation of testimony by witnesses for the non-IEPA parties, and questioning of those witnesses.

III. LEGAL STANDARD FOR MOTION TO STAY PROCEEDINGS.

8. The Board has "inherent authority to grant a stay under certain circumstances," including the authority to stay its own proceedings. *Israel-Gerold's v. Illinois EPA*, PCB No. 91-108 (July 11, 1991) (citations omitted). The Board has sole discretion to grant or deny motions for stay (*People v. State Oil Co.*, PCB 97-103 (May 15, 2003), *aff'd sub nom State Oil Co. v. PCB*, 822 N.E.2d 876 (2nd Dist. 2004)), and historically grants such motions, *inter alia*, (1) to avoid wasting time, expenses, or resources (*In the Matter of: Petition of Midwest Generation, LLC, Will County Generating Station for an Adjusted Standard from 35 Ill. Adm. Code 225.230*, AS 07-04 (March 15, 200&)); (2) to avoid practical difficulties (*Id.*); (3) to avoid duplicative efforts by the Board and other review authorities addressing related issues (*Id.*); and (4) to assist the Board in making the appropriate determination (*In the Matter of: Petition of Cabot Corporation for an Adjusted Standard from 35 Ill. Adm. Code Part 738, Subpart B*, AS 07-06 (August 9, 2007)). A party seeking a stay must submit a motion to the Board "accompanied by sufficient information detailing why a stay is needed," and "[a] status report detailing the progress of the proceeding." 35 Ill. Adm. Code § 101.514.

IV. ANALYTICAL ISSUES WITH IEPA'S PROPOSAL

9. Throughout the public hearings, the District and other parties discovered a number of substantial deficiencies in IEPA's Proposal. As a general matter, IEPA's responses to questioning indicated that it (1) has failed to clearly document the methodologies it utilized to arrive at the major findings and recommendations in its use attainability analysis; (2) did not have adequate data and information to properly assess aquatic life uses or to set appropriate water quality standards; (3) did not have adequate data and information to set appropriate water quality standards to protect recreational uses; and (4) did not have adequate data and information to assess the economic reasonableness of its Proposal.

10. There are a significant number of problems with IEPA's methodologies that have been revealed by the testimony, including the following:

- IEPA conceded that it does not have the proper indicator to assure protection of recreational users (January 29, 2008 Hearing, transcript at p. 180);
- IEPA admitted that it never considered whether provisions could be designed to appropriately protect aquatic life under wet-weather conditions (*Id.* at pp. 65, 187-188);
- IEPA conceded that it did not account for all sources of microorganisms to the CAWS when it determined that certain sources should be subject to disinfection requirements (*Id.* at p. 192);
- IEPA admitted that it did not analyze other potential environmental impacts associated with requiring disinfection in the CAWS (*e.g.*, increased air emissions or waste issues) (*Id.* at p. 193);
- IEPA admitted that unintended environmental consequences of disinfection and artificial supplementation of dissolved oxygen ('DO') (*e.g.*, impacts on carbon footprint or air

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emissions) are relevant to assigning those mechanisms as part of its UAA, yet IEPA conceded that it never studied those consequences in this UAA or weighed them against their benefits (March 10, 2008 Hearing, transcript at p. 40);

- IEPA conceded that sediment chemistry data would be necessary to do a complete evaluation of the habitat issues for aquatic life in the CAWS, but admitted that it did not consider sediment chemistry data in making its habitat evaluation (February 1, 2008 Hearing, transcript at p. 182);
- IEPA admitted that it has not identified specific fish or benthic species that would be benefited by the proposed changes to the water quality standards for the CAWS, or the ways in which those species might be benefited (March 10, 2008 Hearing, transcript at pp. 10, 12-14);
- IEPA conceded that it could not define a clear, non-arbitrary line defining how waters were classified as Aquatic Life Use A or Aquatic Life Use B, despite the significant regulatory differences between the two (*Id.* at pp. 28-29);
- IEPA conceded that it did not evaluate whether the proposed designated aquatic life uses for the CAWS fit within the long-term fisheries management strategies assigned to the CAWS by the Illinois Department of Natural Resources ('IDNR') (*Id.* at p. 78);
- IEPA admitted that it did not address or analyze the number of combined sewer overflow ('CSO') bacteria sources or Municipal Separate Storm Sewer System ('MS4') sources to the CAWS, even though they may be significant contributing sources (April 23, 2008 Hearing, transcript at pp. 76-77, 79);

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- IEPA conceded that it could not say whether the control measures recommended in the UAA would lead to 100% attainment of the standards in all parts of the CAWS (*Id.* at p. 187); and
- IEPA admitted that it could not determine the relative contributions of MS4s and CSOs to low DO levels during wet-weather events (*Id.* at pp. 242-243).

11. The testimony has also revealed a significant number of problems in the data and information collection process for assessing proper aquatic life uses and water quality standards, including the following:

- IEPA conceded that it cannot make a definite distinction between legacy sediment and recent sediment (January 29, 2008 Hearing, transcript at p. 183);
- IEPA admitted that it cannot confirm whether CSOs or resuspended sediment causes DO depletion during wet weather occurrences (*Id.* at pp. 186-187);
- IEPA conceded that it has no data defining the attainable benthic or sediment conditions in the CAWS (March 10, 2008 Hearing, transcript at pp. 22-23);
- IEPA admitted it did not have enough sediment data to determine whether sediment quality is improving (*Id.* at pp. 25-26);
- IEPA conceded that it could not identify the specific tolerant or immediately tolerant species that it used to define a balanced aquatic life population (*Id.* at p. 63);
- IEPA admitted that it could not identify specific species that would be supported in Aquatic Life Use A waters versus Aquatic Life Use B waters (*Id.* at p. 70);
- IEPA conceded that it had no data showing actual fish spawning in the CAWS to support an Aquatic Life Use A designation (*Id.* at pp. 74, 76; *see also* March 11, 2008 Hearing, transcript at pp. 232-233);

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- IEPA admitted that it has no data demonstrating that the Chicago Sanitary and Ship Canal or the Cal-Sag Channel will consistently attain the proposed DO standards (April 23, 2008 Hearing, transcript at pp. 182-183);
- IEPA conceded that it did not have enough sediment chemistry or toxicity data to conclude that the sediment in the CAWS actually contributes to impairing aquatic life potential of the CAWS (*Id.* at pp. 203-205);
- IEPA admitted that it did not assess whether needed corrections to incorrect IBI score calculations would affect any of the water body classifications assigned in the UAA (*Id.* at p. 212);
- IEPA conceded that it did not have adequate information to determine whether sediments are stressors to the aquatic life community in the CAWS (*Id.* at pp. 216-217);
- IEPA admitted that it has no information on the expected sediment inputs from CSO and MS4s into the system over time (*Id.* at pp. 218-219); and
- IEPA conceded it has no direct evidence that legacy contamination in the System is diminishing (January 29, 2008 Hearing, transcript at p. 201).

12. The testimony has also revealed a significant number of problems in the data and information collection process for assessing proper recreational uses and water quality standards, including the following:

- IEPA admitted that it has no scientific data demonstrating the public health benefits to be gained from requiring disinfection in the CAWS (*Id.* at p. 192);
- IEPA conceded that it has no evidence of disease outbreaks resulting from recreation in the CAWS, within the three years preceding its proposal (*Id.* at p. 194);

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- IEPA admitted that it has not identified the number of illnesses that will be prevented annually by requiring the District to upgrade its facilities to add disinfection (at a cost to the District that could amount to several billion dollars) (*Id.* at p. 195);
- IEPA conceded that it has not quantified the wet-weather bacteria levels that will remain after requiring disinfection at the District's facilities (March 10, 2008 Hearing, transcript at pp. 41-42);
- IEPA admitted that it has not determined an expected decrease in human illness risks from requiring disinfection within the System, or the risks to contact or noncontact recreators due to bacteria levels if disinfection is not required (*Id.* at pp. 42-43);
- IEPA conceded that it has no scientific data proving that disinfection will result in measurable water quality improvements in the CAWS (*Id.* at pp. 189-190); and
- IEPA admitted that the recreational uses that it is designating for certain portions of the CAWS "may not be safe." (January 29, 2008 Hearing, transcript at p. 222).

13. The testimony has also revealed a significant number of problems in the IEPA's analysis (or lack thereof) as to the economic reasonableness of IEPA's Proposal, including the following:

- IEPA admitted that it has no analysis that shows that the recommended measures of waterway aeration, waterway flow augmentation, effluent cooling and effluent disinfection in the UAA are cost-effective or that the benefits from such measures outweigh the costs (March 10, 2008 Hearing, transcript at p. 38);
- IEPA conceded that it did not analyze the economic and technical feasibility of any technologies other than disinfection that could reduce pathogens in the System (April 23, 2008 Hearing, transcript at p. 76);

Electronic Filing - Received, Clerk's Office, June 12, 2008

- IEPA admitted that it did not consider the costs of complying with the new proposed DO standards in the UAA for the Cal-Sag Channel or the Sanitary and Ship Canal (*Id.* at p. 184); and
- IEPA conceded that it never assessed whether the District's Stickney facility could consistently comply with the temperature standards proposed in the UAA (*Id.* at p. 188), even though the standards were based partly on data from that facility.

V. FORTHCOMING STUDIES THAT WILL ASSIST IEPA'S ANALYSIS FOR THE PROPOSAL

14. One set of studies that would assist IEPA relates to risks to public health from bacteria levels. At the request of IEPA, the District has already performed several studies on this issue, including: (1) a fecal coliform distribution study on CAWS waters; (2) an expert panel study on secondary contact criteria feasibility in the CAWS; and (3) a quantitative microbial risk assessment for the recreational uses proposed for the CAWS. The risk assessment was completed recently, and the report from that study is being submitted to IEPA, for its review and consideration, at the same time as this Motion for Stay is being filed with the Board. Currently, there is an ongoing epidemiological study of recreational contamination in the CAWS, which is intended to validate the results of the quantitative microbial risk assessment, to provide scientific data necessary to properly evaluate the actual risk of illness, and to provide scientific data on the risk of illness in correlation to indicator bacteria concentrations. The study has undergone and been approved through the peer review process, and it is scheduled for completion in early 2010. A letter concerning the study, from the Water Environment Research Foundation (which has been coordinating the peer review process for the study), is attached as Exhibit A.

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15. Another set of forthcoming helpful studies for recreational use development on the CAWS focus on the cost of complying with the proposed standards: These studies include the following:

- The District has already convened a ‘Blue Ribbon Panel’ to evaluate and rank the suitability of all available disinfection technologies for the various District facilities.
- Currently, the District is completing a preliminary design and cost estimate study for installing various types of effluent disinfection units at its CAWS facilities. The final cost estimates will be completed by the end of 2008.
- The District is conducting a study on the overall costs and environmental impacts (including carbon footprint issues) that will result from compliance with the proposed standards, which will be completed in early 2009.
- The District is performing a pilot scale technology assessment, which will compare several UV technologies side-by-side and evaluate efficacy, energy consumption, reliability, maintenance requirements and select a preferred technology. That study will be completed by Spring 2009.
- The District has completed a study of the technical feasibility and cost of end-of-pipe treatment of the 170 CSOs along portions of the CAWS. This study has not been submitted for consideration by IEPA and the Board during this process, but the most recent hearings indicate that CSO issues are more significant for this rulemaking, on both bacteria and DO, than was earlier thought, so the District is submitting that study to IEPA for its consideration, at the same time that this Motion for Stay is being filed with the Board.

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16. The District has also undertaken a program of study that will generate more and better data to help in developing and justifying appropriate aquatic life use designations for the CAWS. This program consists of several different studies, including the following:

- an evaluation and improvement study on the various CAWS habitats, to better define the capabilities of the CAWS to support aquatic life, and to resolve issues concerning its potential to support early life states of fish. This study includes identifying the ambient fish populations and life stages in the CAWS, if any, and then developing a habitat metric specifically designed for this highly-modified waterway system. This study should be completed by Summer 2009;
- an ongoing program to gather sediment quality data on the CAWS. The recent hearings yielded testimony to the effect that IEPA, in developing its rulemaking proposal, did not consider any of the District's sediment data that was collected after the year 2002. To ensure that data from subsequent years is considered, the District is submitting those data for IEPA review simultaneously with the filing of this Motion for Stay;
- a continuous DO monitoring program on the CAWS with extensive hourly data to better identify DO problems and explore the effects of wet weather on this system. These programs are continuing to yield useful information; and
- a comprehensive ambient water quality monitoring program, assessing water chemistry, fish, benthic invertebrates, physical habitat, sediment chemistry, and sediment toxicity data, which has been in place on the CAWS since 2001. This program is also continuing to yield useful information.

17. There are also several ongoing or proposed engineering studies that will help better understand the CAWS and the necessary improvements. These include:

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- development of an integrated water quality strategy for the entire CAWS, using engineering, cost and water quality studies to identify ways to meet the proposed DO standards. This study integrates the approaches, such as flow augmentation, supplemental aeration and CSO capture and treatment, that were previously studied individually, into a unified strategy for water quality improvement. This study will be completed in early 2009;
- field tests using Sidestream Elevated Pool Aeration ('SEPA') Stations on the Calumet-Sag Channel to understand if the stations can be operated to comply with the proposed DO standards, and, if so, what the additional electricity requirements to meet the new standards would be. These tests will be done by late 2008;
- refining a state of the art unsteady state hydraulic and water quality model ('CAWS WQ Model') calibrated for modeling DO during typical wet weather periods, with the goals of improving the calibration and extending the model's abilities to simulate a wider range of conditions and to better assess the attainability of proposed DO criteria under a range of expected conditions (expected Fall 2008);
- studies (which have been completed) assessing control measures (such as flow augmentation and supplemental aeration) for several specific segments of the CAWS;
- performing an economic and environmental impact study to determine the costs to implement the integrated treatment and stream improvement projects identified in the integrated water quality strategy above, given the District's current economic structure and tax-based limitations. The study will determine the overall costs and environmental impacts that will result from compliance with the proposed water quality DO standard. This project will be completed by mid-2009;

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- 3-dimensional hydraulic modeling to study the complex hydraulics of the CAWS under various conditions. This research will examine issues of stratification, bidirectional flow and stagnation, under a range of dry and wet weather conditions, in order to provide the more sophisticated modeling necessary for selection of the sites and sizes of supplemental aeration facilities for final design if necessary. This study is planned to be completed by the end of 2010; and
- an assessment, now completed, of the District's ability to comply with the proposed water quality standards for temperature. During the recent hearings, it became apparent that this issue had not been fully assessed by IEPA, so the District agreed to supply the compliance information (which is taken from monthly reports filed with IEPA) for IEPA's review, and the data is being submitted to IEPA simultaneously with the filing of this Motion for Stay.

VI. A STAY SHOULD BE GRANTED TO ALLOW FOR IEPA'S CONSIDERATION OF FORTHCOMING RELEVANT STUDIES.

18. As discussed above, IEPA's Proposal has substantial deficiencies, including serious data gaps. The studies that are set forth above would be very helpful in filling those gaps, and in helping the Board to form an adequate scientific basis for its decisions. A stay is appropriate so that IEPA can take the needed steps: (1) receive, consider, and analyze the studies; (2) collect any other information that is needed to complete a supportable analysis; and then (3) submit the complete rulemaking proposal to the Board, with all relevant supporting information, so the Board can make a fully-informed and soundly-based decision.

19. A status report detailing the progress of the instant proceeding is attached as Exhibit B.

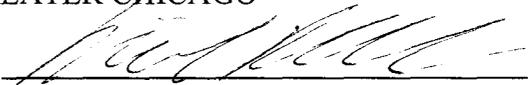
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WHEREFORE, the District respectfully requests that the Board stay all proceedings on IEPA's Proposal, until the studies described in this Motion are completed and the results can be taken into account in a dialogue among the stakeholders. The stakeholder process that was terminated by the initiation of this rulemaking should resume, and the parties should be directed to submit quarterly status reports to the Board, to ensure that progress continues toward resolution of the outstanding issues and completion of the rulemaking. Also, the District respectfully requests that the Board stay the schedule for submittal of testimony until after the Board has ruled on this Motion for Stay.

Dated: June 12, 2008

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June 11, 2008

Dr. G. Tanner Girard
Acting Chairman & Member
Illinois Pollution Control Board
Suite 11-500
James R Thompson Center
100 West Randolph Street
Chicago, IL 60601

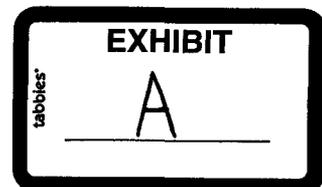
Re: *Peer Review of Epidemiologic Study of Recreational Use of the Chicago Area Waterways*

Dear Dr. Girard:

The Water Environment Research Foundation (WERF) is a nonprofit organization that helps utilities, local governments and other stakeholders preserve the water environment and protect human health by providing science and technology research to enhance management of our water resources. In Spring 2007, WERF was asked by Metropolitan Water Reclamation District of Greater Chicago (MWRDGC) to coordinate an independent peer review of its *Epidemiologic Study of Recreational Use of the Chicago Area Waterways*. Peer review is a service that WERF provides upon request, and in this case at WERF's expense, to its subscribers. It is our understanding that this epidemiologic study is intended to provide scientific support for a recreational water quality standard for the Chicago Area Waterways. It is in this context that I am writing this letter to make you aware of WERF's efforts.

WERF assembled a panel of recognized experts to provide an independent review of the study which is being conducted by investigators at the University of Illinois-Chicago's School of Public Health (UIC). The reviewers have backgrounds in epidemiology, infectious diseases, water microbiology, microbial ecology, risk assessment, public health, and waste water management. The reviewers include professionals from academia, local government, consulting and federal government agencies. Several members of the panel are currently conducting related epidemiology, microbiological and other research studies. WERF's role is strictly in a coordination capacity as the technical advice is provided by the panel members. WERF has no direct control over, nor direct input into, the UIC epidemiologic study.

To begin the peer review process, the research team at UIC provided the peer review panel with a detailed research plan and quality monitoring procedures in advance of the panel's first meeting held at UIC on July 17-18, 2007. In keeping with the approaches used by national scientific organizations, all panelists reviewed documents that described general aspects of the study, while specific sections of the research plan and quality assurance plan were assigned to



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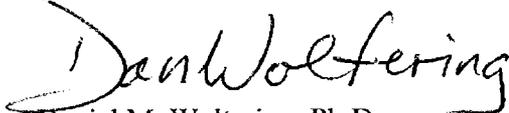
Page 2

individual reviewers based on their areas of expertise. All elements of the study were reviewed, ranging from the study objectives, to aspects of recruitment of study participants, health monitoring, water sampling, water analyses and statistical methods. The peer review panel provided input including suggestions to UIC to further strengthen certain technical aspects of the study. The final study plan reflects modifications that were advised in the peer review process. The peer review panel was satisfied that the proposed study design is sound and thorough and that the UIC research team, under the leadership of Dr. Samuel Dorevitch, is well qualified to conduct the study.

The peer review panel met with the UIC Team again on February 27, 2008 to review the data from the first season of sampling and to refine the study plans for the upcoming study season. The peer review panel liked the progress they saw and agreed with the refinements made by the UIC research team to the study plans for the second season of sampling.

The UIC's study has been designed to provide information that is valuable in the area of health risks associated with secondary contact recreation, and address potential deficits in the current knowledge of the health risks associated with limited contact water recreation and the measures required to protect the public. WERF intends to continue to coordinate the peer review efforts over the course of the study as the independent experts provide input to the collection, analysis and interpretation of the data.

Sincerely,



Daniel M. Woltering, Ph.D.
Director of Research

cc: Peer Review Panel Members
Dr. Samuel Dorevitch, University of Illinois – Chicago
Thomas Granato, PhD, Metropolitan Water Reclamation District of Greater Chicago

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
WATER QUALITY STANDARDS AND)
EFFLUENT LIMITATIONS FOR THE) R08-9
CHICAGO AREA WATERWAY SYSTEM) (Rulemaking - Water)
AND THE LOWER DES PLAINES RIVER:)
PROPOSED AMENDMENTS TO 35 Ill.)
Adm. Code Parts 301, 302, 303 and 304)

STATUS REPORT

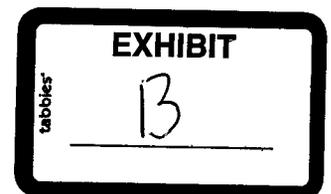
The Metropolitan Water Reclamation District of Greater Chicago (the 'District') respectfully submits this Status Report on the rulemaking proceedings in the above-captioned case, as required by 35 Ill. Adm. Code 101.514.

1. On October 26, 2007, the Illinois Environmental Protection Agency ('IEPA') filed a Motion for Acceptance with the Illinois Pollution Control Board (the 'Board') for a hearing on IEPA's proposal to amend 35 Ill. Adm. Code Parts 301, 302, 303, and 304 ('IEPA's Proposal'). Generally, IEPA's Proposal would amend the water quality standards for the Chicago Area Waterways System ('CAWS') and the Lower Des Plaines River, to revise the designated uses and the criteria necessary to protect those uses.

2. On November 1, 2007, the Board granted IEPA's Motion for Acceptance, thereby initiating the public hearing process required by Illinois law.

3. On November 16, 2007, the District entered an appearance to participate in the public hearing process, along with various other parties who entered appearances prior to or after the District's appearance.

4. The Board issued the original Notice of Hearings on November 20, 2007 that scheduled the first public hearing on the rulemaking for January 28, 2008 through, at the latest, February 1.



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5. IEPA submitted pre-filed testimony for the public hearing process on December 21, 2007, and a number of interested parties submitted pre-filed questions for IEPA prior to the hearing, including the District on January 18, 2008.

6. The first hearing on IEPA's Proposal occurred from January 28 to February 1, 2008, in Chicago, Illinois. After the first day of hearing, it became clear that the District and other interested parties would not finish questioning IEPA personnel in that span. Therefore, on January 29, 2008, the Board scheduled a second public hearing session for March 10 through March 12, 2008, and ordered that it focus on finishing testimony from IEPA.

7. The Board held the second public hearing session from March 10 through March 12, 2008, in Joliet, Illinois, and, on March 17, 2008, scheduled a third hearing session to take place on April 23-24, 2008 in Des Plaines, Illinois, again aimed at completing IEPA testimony.

8. During a pre-hearing conference before the April 23 through April 24, 2008 hearing, the District requested the Hearing Officer stay the proceedings to allow for the review and consideration of forthcoming studies that will help reconcile significant deficiencies in IEPA's Proposal. The Hearing Officer ultimately decided, in an order dated May 2, 2008, not to address the District's request, indicating that the Board must decide on such requests, not the Hearing Officer.

9. On May 8, 2008, the Board scheduled a fourth public hearing session for June 16, 2008 in Chicago, Illinois. The purpose of the June 16th hearing is for public testimony on IEPA's Proposal.

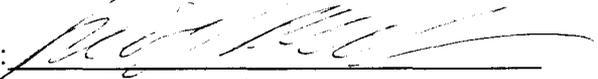
10. On May 19, 2008, the Board scheduled additional hearings in Chicago, Illinois for six days in September 2008, to allow non-IEPA witnesses to testify and address questions from interested parties. Pre-filed testimony for the scheduled September public hearing session must

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be filed before August 4, 2008, and pre-filed questions from interested parties must be filed before August 25, 2008.

Respectfully submitted,

METROPOLITAN WATER
RECLAMATION DISTRICT OF
GREATER CHICAGO

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Dated: June 12, 2008