

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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OCT 25 2010

STATE OF ILLINOIS
Pollution Control Board

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

R08-09
(Rulemaking – Water)
Subdocket C and D

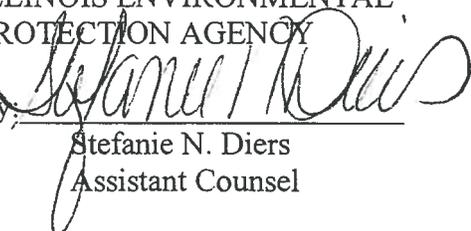
NOTICE OF FILING

To: John Therriault, Clerk
Marie Tipsord, Hearing Officer
James R. Thompson Center
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution
Control Board ILLINOIS EPA'S PRE-FILED QUESTIONS FOR CITGO'S WITNESS
ROBIN L. GARIBAY a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Stefanie N. Diers
Assistant Counsel

Dated: October 22, 2010
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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R08-09 (Sub-docket C and D)
(Rulemaking – Water)

Illinois EPA's Pre-Filed Questions for Citgo Witness Robin L. Garibay

The Illinois Environmental Protection Agency ("Illinois EPA"), by and through its attorneys, hereby submits its Pre-Filed Questions for the Citgo Lemont Refinery witness Robin L. Garibay for the November 8, 9 and 10, 2010 hearings in the above-captioned matter. Illinois EPA reserves the right to ask additional follow-up questions as necessary.

1. Please describe your experience in the area of invasive species?
2. Please describe your experience in the area of assessing biologic integrity?
3. On page 16 you state, "it is suggested that no habitat improvement options be implemented that would increase the reproduction or presence of algae and macroinvertebrates from existing conditions." In your opinion, how could the presence of algae be minimized? Should dischargers to the CAWS be required to remove phosphorus and nitrogen?

4. On page 16 you describe a situation where you suggest that the existing limit for copper of 1.0 mg/L would be better at repelling the Asian carp since it would limit food source more than the proposed copper limit.

a. Do you know if the proposed copper limits are currently attained?

What about the other metals?

b. If the proposed standards are currently attained in the CSSC, how could retaining higher standards in the regulations control Asian Carp?

c. Are you suggesting that dischargers be allowed to increase the toxicity of the metals in their effluents?

5. On page 8 of your testimony you make the following statement:

"In our understanding, since IEPA found that the EPA goals for optimal uses of the waters could not be obtained [sic], and particularly since they were the result of irreversible conditions for more than one factor, the focus should have been on what water quality standards were needed to support those uses that were, in fact, occurring."

a. Is it your understanding that the goal of a Use Attainability Analysis is to determine what uses are occurring or what uses are attainable?

b. Please explain what difference it makes that the Illinois EPA relied on 3 different UAA factors versus 1 UAA factor?

c. What water quality standards would you propose to protect the current uses of the CSSC?

6. Why do you conclude that “As the design and operation of the Lower Reach of the Ship Canal are irreversible, the evaluation of the UAA Factor 4 ... and Factor 5would lead to a determination that an expectation of attainment of aquatic life use higher than the current use is extremely unlikely” (See, page 8)?

a. Is it your testimony that no improvements in aquatic life uses have occurred in the CSSC since these hydrologic modifications were completed 100 years ago?

b. What about since the 1970's?

c. Is it your testimony that no additional improvements in water quality could improve the aquatic life uses in the CSSC?

7. When you say on page 9 of your pre-filed testimony that “We believe that these operations, combined with managing water quality at current conditions, are an important, and currently overlooked, designated use of the Lower Reach of the Ship Canal” what do you mean?

a. Is it your testimony that Citgo and other dischargers to the CAWS should be allowed to pollute the CSSC with toxic chemicals in their effluents, to prevent the spread of invasive species?

b. If so, what toxic chemicals would you include and what levels of such chemicals will restrict passage of Asian carp?

c. Are you aware that U.S. EPA commissioned a modeling study on whether or not improving water quality in the CAWS could increase the risk of spread of non-indigenous species between the Great Lakes and Mississippi River basins?

d. Are you aware of the results of that study?

8. On page 10 you testify that “Strategies selected to prevent invasions of non-native species into the Great Lakes, such as Asian carp, include . . . the piscicide rotenone.” Please explain this statement?

9. Your testimony references Executive Order 13112. Please explain that order and its relevance to the CAWS?

a. Does that document have to be implemented consistent with the Clean Water Act?

b. Does that document provide for the restocking of native species harmed by invasive species?

10. Explain your statement on page 14 that “The deterrent of Asian carp to Lake Michigan in the Lower Reach of the Ship Canal is an existing use, whether or not it is recognized in the water quality standards.”

a. What regulations do you propose the Board adopt to recognize this ‘use’ and what accompanying water quality standards are needed to protect this ‘use’?

b. Are you suggesting that the Board ignore the many improvements to the CSSC since 1970 and retain the outdated uses and water quality standards for these waters?

11. Explain your statement on page 15 that the Agency’s proposal “would result in improvements of habitat”? How would the proposal improve “water quality conditions”?

12. On page 15 you discuss “conditions that would attract or be favorable to the target species”. Do you believe elevated temperature levels in the CSSC could attract Asian Carp to the CSSC in the non-summer months?

13. Please explain your statement on page 17 that "this designated use (invasive species control) in the CAWS is in full support of the intent of the Clean Water Act goals." What 'intent' and 'goals' are you referring to?

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Stefanie Diers
Assistant Counsel

Dated: October 22, 2010

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STATE OF ILLINOIS
COUNTY OF SANGAMON

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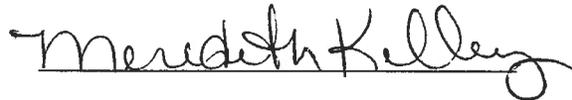
PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached ILLINOIS EPA'S PRE-FILED QUESTIONS FOR CITGO'S WITNESS ROBIN L. GARIBAY upon the person to whom it is directed by placing it an envelope addressed to:

John Therriault, Clerk
Marie Tipsord, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

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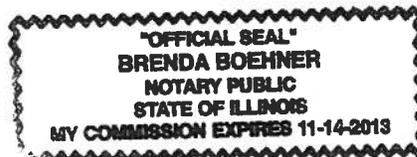
and mailing it First Class Mail from Springfield, Illinois on October 22, 2010, with sufficient postage affixed.



SUBSCRIBED AND SWORN TO BEFORE ME

This 22 day of October 2010

Brenda Boehner
Notary Public



THIS FILING IS SUBMITTED ON RECYCLED PAPER