

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..) (Subdocket B)
ADM. CODE PARTS 301, 302, 303 and 304)

NOTICE OF FILING

To:

John Therriault, Assistant Clerk
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100 West Randolph, Suite 11-500
Chicago, IL 60601-7447

Stefanie N. Diers, Assistant Counsel
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Marie Tipsord, Hearing Officer
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100 West Randolph, Suite 11-500
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Persons on the attached service list

Please take notice that on the 17th Day of December, 2010, I filed with the Office of the Clerk of the Illinois Pollution Control Board the attached **Motion to Allow Response to New Information to be Submitted by the Metropolitan Water Reclamation District**, a copy of which is hereby served upon you.



By: _____
Ann Alexander, Natural Resources Defense Council

Dated: December 17th, 2010

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CERTIFICATE OF SERVICE

I, Ann Alexander, the undersigned attorney, hereby certify that I have served the attached **Motion to Allow Response to New Information to be Submitted by the Metropolitan Water Reclamation District** on all parties of record (Service List attached), by depositing said documents in the United States Mail, postage prepaid, from 227 W. Monroe, Chicago, IL 60606, before the hour of 5:00 p.m., on this 17th Day of December, 2010.

A handwritten signature in blue ink that reads "Ann Alexander". The signature is written in a cursive style.

Ann Alexander, Natural Resources Defense Council

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
)
WATER QUALITY STANDARDS AND)
EFFLUENT LIMITATIONS FOR THE) R08-09B
CHICAGO AREA WATERWAYS SYSTEM) (Rulemaking- Water)
(CAWS) AND THE LOWER DES PLAINES)
RIVER: PROPOSED AMENDMENTS TO)
35 Ill. Adm. Code Parts 301, 302, 303 and 304)
(Recreational Use Designations))

**MOTION TO ALLOW RESPONSE TO NEW INFORMATION TO BE
SUBMITTED BY THE METROPOLITAN WATER RECLAMATION DISTRICT**

Pursuant to 35 Ill. Admin. Code §§ 101.522 and 101.612, the Natural Resources Defense Council, Openlands, Sierra Club – Illinois Chapter, Southeast Environmental Task Force, Environmental Law and Policy Center, and Friends of the Chicago River (collectively, “Environmental Groups”) move the Pollution Control Board (“Board”) for an order allowing parties to respond on or before January 31, 2010 to any new information that the Metropolitan Water Reclamation District (“MWRD” or the “District”) may choose submit on or before the comment deadline in this subdocket, December 31, 2010 pursuant to the Board’s request during hearings for such information.

During the most recent hearings in this subdocket held October 19 and 20, 2010, the Board made numerous requests for additional information. Attachment 1 to this motion is a list of all such information that the Board requested, and/or MWRD agreed to provide.

The Environmental Groups are requesting only the opportunity to respond to new information that may be presented on or before the December 31 comment deadline, and not to respond globally to the District’s (or any other party’s) comments. It would be highly prejudicial to the Environmental Groups’ interests if the District were allowed to submit voluminous new

information on issues that it considers critical to the resolution of the Subdocket B issues – in particular the cost of disinfection, the CHEERS study, and the question of instream standards – without allowing for a response.

Failure to grant to motion would defeat the purpose of creating a full and complete record, potentially affecting the legal adequacy of the Board's order in this subdocket. The short period we are requesting for a response is reasonable in the context of this hearing, and essential to ensure that the Board has before it complete information.

Dated: December 17, 2010

Respectfully submitted,

NATURAL RESOURCES DEFENSE COUNCIL
SIERRA CLUB-ILLINOIS CHAPTER
OPENLANDS
SOUTHEAST ENVIRONMENTAL TASK
FORCE
ENVIRONMENTAL LAW & POLICY CENTER
FRIENDS OF THE CHICAGO RIVER



By: _____

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Authorized to represent the parties listed above for purposes of this motion

ATTACHMENT 1

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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

CHECKLIST FOR DISTRICT'S UPDATE TO THE BOARD AS REQUESTED DURING HEARINGS ON OCTOBER 19-20, 2010

Transcript Abstract of Testimony of Dr. Dorevitch
October 19, 2010 at 9:00 a.m.; Hearing Before the Illinois Pollution Control Board

Page Number	Testimony
193	Ms. Tipsord requests that Dr. Dorevich develop a supplemental report detailing the effects of handwashing and food consumption on illness rate patterns.

Transcript Abstract of Testimony of Dr. Granato
October 19, 2010 at 1:00 p.m.; Hearing Before the Illinois Pollution Control Board

Page Number	Testimony
242	The Board requests that the District provide in its comments an update as to US EPA's activities concerning recreational water quality standards and its implications, if any, on the current rulemaking and whether or not anything is being done at this time to begin to investigate secondary contact criteria or implementation guidelines.
246-47	Mr. Andes indicates that the District will develop a legal opinion in response to Mr. Harley's question as to whether the District is obligated to seasonally disinfect based on a legal designation of certain CAWS waters as protected waters.
252	In response to Tinka Hyde, Director, Water Division, USEPA Region 5, Public Comment 304 ("It is EPA's view that the dry and wet weather risk assessments were deficient and do not adequately describe the potential risk of exposures on undisinfected sewage effluents to persons engaged in limited contact recreational activities on the CAWS"), Dr. Granato testified that the District is in the process of reviewing the Geosyntec study. He indicated a written response would be completed sometime in early November 2010.

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Transcript Abstract of Testimony of Dr. Granato (cont.)
October 20, 2010 at 9:00 a.m.; Hearing Before the Illinois Pollution Control Board

Page Number	Testimony
19-23 41-50	<p data-bbox="331 375 1208 405">Mr. Rao and Ms. Liu: In the District's update to the Board, would it please:</p> <ol style="list-style-type: none"><li data-bbox="370 449 1398 548">1) Estimate what the cost impact would be on Cook County taxpayers to comply with the proposed regulations in terms of a percent increase for the next fifteen or twenty years?<ol style="list-style-type: none"><li data-bbox="418 554 1398 621">a) What would be the increase in terms of dollars per \$100 of equalized assessed value of properties?<li data-bbox="418 627 1344 688">b) What would be the increase in user fees for tax-exempt organizations and industrial users?<li data-bbox="370 695 1390 835">2) Comment on the current status of the nutrient control program and any potential timetable for implementation of those rules, as well as funding mechanisms, various cost estimates, current status of the regulatory activities, and whether it would have any collateral benefits for reducing fecal coliform in your effluent?<li data-bbox="370 842 1279 909">3) Address why the USEPA is also planning to include inland waters when it establishes water quality criteria for bacteria?<li data-bbox="370 915 1403 1014">4) Address how USEPA has handled giving states flexibility in setting secondary contact water quality standards, in both its past implementation guidance and also the direction that it is headed now with new implementation guidance? ***<li data-bbox="370 1020 1373 1161">5) Consider putting together a proposal about water quality criteria for bacteria for the three recreational use categories the Board has proposed in its first notice regulations? Or at least provide information that may be used to establish such criteria?<li data-bbox="370 1167 1377 1234">6) Come up with the criteria for the wet weather use category and propose specific language as to how this category would be implemented?<li data-bbox="370 1241 1373 1402">7) Propose effluent-based limits based on those criteria that may apply to the District's three wastewater treatment plants (since you previously said in your testimony that the District will accept effluent limits based on water quality standards rather than technology-based standards proposed by the Agency), for information purposes only?<li data-bbox="370 1409 1344 1476">8) Update its economic analysis based on the water quality criteria that you may propose and any effluent limits?<li data-bbox="370 1482 1398 1581">9) Take a look at the Board's proposed set of use regulations and the District's alternate proposal and present both scenarios, such as suggested standards, suggested effluent limits, and the cost impacts of each, including for wet weather? <p data-bbox="331 1623 1393 1896">*** [Dr. Granato's response to request #2: I know they are contemplating more flexibility on this new approach. I recently attended a meeting on the Water Environment Research Foundation (WERF), a pathogen challenge that USEPA has been a very active member of. The challenge was designed to develop data and information that would be immediately useful to USEPA. It was explained that they were going to build a lot of off-ramps into the process, so they would have a main national route and then various off-ramps where local conditions could be considered and site-specific criteria could be developed. They were looking at quantitative microbial risk assessment as a cost effective and efficient tool for</p>

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<p>doing that. They are also looking at QPCR, a DNA-based analytical method that would enable some source tracking, so it could be used in local conditions to determine sources of indicators. We can provide a much more detailed update, but that is what I know at this time.]</p>
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