

**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: ) Subdocket B  
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 21st day of December, 2010, I electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, **Metropolitan Water Reclamation District of Greater Chicago's Response to Environmental Groups' Motion to Allow Response to New Information to be Submitted by the Metropolitan Water Reclamation District and *Emergency* Cross-Motion to Extend Final Comment Date For Limited Purpose.**

Dated: December 21st, 2010.

**METROPOLITAN WATER RECLAMATION  
DISTRICT OF GREATER CHICAGO**

By: /s/ Fredric P. Andes  
One of Its Attorneys

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**PROOF OF SERVICE**

The undersigned attorney certifies, under penalties of perjury pursuant to 735 ILCS 5/1-109, that I caused a copy of the forgoing, **Notice of Filing and Metropolitan Water Reclamation District of Greater Chicago's Response to Environmental Groups' Motion to Allow Response to New Information to be Submitted by the Metropolitan Water Reclamation District and Emergency Cross-Motion to Extend Final Comment Date For Limited Purpose**, to be served via First Class Mail, postage prepaid, from One North Wacker Drive, Chicago, Illinois, on the 21st day of December, 2010, upon the attorneys of record on the attached Service List.

*/s/ David T. Ballard*

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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PROPOSED AMENDMENTS TO 35 Ill. )  
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**METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO'S  
RESPONSE TO ENVIRONMENTAL GROUPS' MOTION TO ALLOW RESPONSE TO  
NEW INFORMATION TO BE SUBMITTED BY THE METROPOLITAN WATER  
RECLAMATION DISTRICT AND *EMERGENCY* CROSS-MOTION TO EXTEND  
FINAL COMMENT DATE FOR LIMITED PURPOSE**

The Metropolitan Water Reclamation District of Greater Chicago ("the District"), by its attorneys Barnes & Thornburg LLP, and pursuant to 35 Ill. Admin. Code §§ 101.500(d), 101.522, and 101.612, hereby responds to the Environmental Groups' Motion to Allow Response to New Information to be Submitted by the Metropolitan Water Reclamation District, and moves on an emergency basis for an extension of the final comment deadline from December 31, 2010 to February 15, 2011 for the limited purpose of allowing the parties to this rulemaking to file final comments stating their positions on the issues involved in subdocket B. In support of its Motion, the District states as follows:

1. On August 5, 2010, the Pollution Control Board (the "Board") entered an order that the Hearing Officer "set a final comment date for no later than December 31, 2010." On August 13, 2010, the Hearing Officer acknowledged the December 31, 2010 deadline.

2. On December 17, 2010, the Environmental Groups filed a Motion to Allow Response to New Information to be Submitted by the District, which seeks "an order allowing the parties to respond on or before January 31, [2011] to any new information that the [District]

may choose to submit on or before the comment deadline in this subdocket, December 31, 2010 .

..” Environmental Groups’ Mot., at 1.

3. The District takes no position on the Environmental Groups’ request that it be allowed to respond by January 31, 2011 to information filed by the District on December 31, 2010. However, if the Board grants the Environmental Groups’ request, the District likewise requests that it be allowed to respond by January 31, 2011 to any information or comments submitted by any party by December 31, 2010. Given that the Environmental Groups would be allowed to respond to the December 31, 2010 filings (assuming the Board grants their Motion), the same allowance to the District would not delay this rulemaking and would be fundamentally fair.

4. In addition, the District urgently requests an expedited ruling that an order be entered extending the December 31, 2010 deadline for the sole purpose of allowing parties to submit final comments that present the parties’ arguments and positions on the issues before the Board in subdocket B. Such final comments would not present new information or data, but would summarize the facts presented to the Board during the rulemaking, and would only allow the parties to state their positions on the issues before the Board.

5. The District intends to file a final comment in this subdocket that will not include any new information, but will serve as a final “brief” of the District’s positions on the issues before the Board. Of course, all parties to this rulemaking are also entitled to file the same type of final comment. Because the Environmental Groups, and likely other parties, will still be submitting new responses on January 31, 2011 to information and analyses filed on December 31, 2010 (assuming the Board grants their Motion), subdocket B will not be set to close on December 31, 2010 and final comments cannot be submitted on that date. In order to allow all

new information and responses to be filed with the Board, and to allow the parties an opportunity to submit final comments that provide the Board with comprehensive documents on the parties' positions on the subdocket B issues, the District requests that final comments in subdocket B be allowed to be filed by February 15, 2011.

6. Pursuant to 35 Ill. Adm. Code § 101.500(d), the District makes its request on an emergency basis. Section 101.500(d) provides that “**Unless undue delay or material prejudice would result**, neither the Board nor the hearing officer will grant any motion before expiration of the 14 day response period except in deadline driven proceedings where no waiver has been filed.” (emphasis added). If the Hearing Officer or Board waits for 14 days for responses to the District's limited request to extend the December 31, 2010 deadline, the deadline itself will have passed and the District's request will become moot. Because the quickly-approaching December 31, 2010 deadline will arrive in less than 14 days, the District would be materially prejudiced and there would be undue delay if the parties are allowed 14 days to respond to the District's request.<sup>1</sup> Accordingly, the District requests that an order be entered on an emergency basis and as soon as possible, because it is impracticable to allow a full 14-day response period under 35 Ill. Adm. Code § 101.500(d).

WHEREFORE, the Metropolitan Water Reclamation District of Greater Chicago requests that if the Environmental Groups' Motion is granted, the District likewise be allowed until January 31, 2011 to respond to any new information filed on December 31, 2010. The District further requests that in the event that the Environmental Groups' Motion is granted, an order be entered on an emergency basis to extend the final comment deadline from December 31, 2010 to

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<sup>1</sup> The District has intended to file its final comments on December 31, 2010 because it assumed that subdocket B would be closed on that date. However, the District has moved as quickly as possible to file this emergency request after it received the Environmental Groups' Motion that seeks to keep subdocket B open past the December 31, 2010 deadline.



February 15, 2011 for the limited purpose of allowing the parties to this rulemaking to file a final comment stating their positions on the issues involved in subdocket B, and grant all other relief that the Board deems fair and just.

Dated: December 21, 2010

**METROPOLITAN WATER RECLAMATION  
DISTRICT OF GREATER CHICAGO**

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One of Its Attorneys

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