

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 22nd 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 Reply in Support of *Emergency* Cross-Motion to Extend Final Comment Date For Limited Purpose.**

Dated: December 22nd, 2010.

**METROPOLITAN WATER RECLAMATION
DISTRICT OF GREATER CHICAGO**

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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 Reply in Support of *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 22nd day of December, 2010, upon the attorneys of record on the attached Service List.

/s/ David T. Ballard

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METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO'S REPLY IN SUPPORT OF *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 files its Reply in Support of its Emergency Cross-Motion to Extend the Final Comment Date 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. For its Reply, the District states as follows:

In their Response to the District's Motion, the Environmental Groups withdraw their December 17, 2010 Motion based on the assertion that "The District has indicated in its motion that it does not intend to submit new information in response to the Board's requests on or before the December 31 deadline." Environmental Groups' Resp., at 1 (citing the District's Emergency Motion, at ¶ 4). This assertion is simply not correct.

Before the Environmental Groups filed their Motion to Allow a Response to New Information Submitted by the District on December 17, 2010, the District intended to file two sets of documents by the December 31, 2010 deadline¹: 1) documents that contain new data and analyses that were requested by the Board during recent administrative hearings on October 19

¹ The Pollution Control Board will be closed on Friday December 31, 2010. As a result, the parties can file documents on January 3, 2011 in compliance with the December 31, 2010 deadline.

and 20, 2010; and 2) a final comment that would serve as a brief on the District's positions on the issues before the Board in Subdocket B, which would not set forth any new data or information. The District will still be filing the first category of documents on January 3, 2011 regardless of the Environmental Groups' Motion of December 17. However, because the Environmental Groups' December 17 Motion requested to keep Subdocket B open for new filings until January 31, 2011, the District sought to extend the time for the filing of any parties' final comments until February 15, 2011, which is 15 days after the final information and data submissions would be made in Subdocket B according to the Environmental Groups' Motion. Again, as stated in the District's original Motion, any of those final comments filed by February 15, 2011 would not contain any new data or information.

Paragraph 4 of the District's Motion states in its entirety:

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.

Contrary to the Environmental Groups' arguments, there is nothing about this paragraph that states that the District is not filing new information to the Board by the December 31, 2010 deadline. It only addresses the extension of time for the parties to file final comments that set forth the parties' positions on the issues presented in Subdocket B. Just to be clear, so that no further misinterpretations occur – **the District will be submitting documents that contain new data and information on or before January 3, 2011 per the Board's request at the October 19 and 20, 2010 hearings and in compliance with the Board's deadline.** If the Environmental Groups wish to withdraw their December 17 Motion, the District does not object to such

withdrawal. In the event of such withdrawal, the District will simply file on or before January 3, 2011 both the documents containing new data and information requested by the Board at the October 19 and 20, 2010 hearings, and the District's final comments. At that point, Subdocket B would close.

Moreover, the District has shown good cause for its Motion. Until the Environmental Groups filed their Motion, the District intended on filing its final comments according to the December 31, 2010 deadline (in addition to the new information that was requested of the District at recent hearings). But because the Environmental Groups moved to keep subdocket B open beyond December 31, 2010, it would be premature and illogical for parties to file final comments at the end of 2010 if Subdocket B would still be open for new information submissions until January 31, 2011. In other words, the District's Motion simply requests that parties' final comments should be allowed to be filed 15 days after January 31, 2011, the final day when parties will be submitting new information related to Subdocket B issues (assuming the Environmental Groups' December 17 Motion is granted). Moreover, the District moved as quickly as possible for a limited extension of time to file final comments, after it saw on the Board's docket that the Environmental Groups' Motion was filed on December 17, so any assertion that the District delayed in filing its Motion should be ignored.

WHEREFORE, the Metropolitan Water Reclamation District of Greater Chicago 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 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 22, 2010

**METROPOLITAN WATER RECLAMATION
DISTRICT OF GREATER CHICAGO**

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