

ILLINOIS POLLUTION CONTROL BOARD

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APR 20 2011

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
SITE SPECIFIC RULE FOR CITY OF)
JOLIET WASTEWATER TREATMENT)
PLANT FLUORIDE AND COPPER)
DISCHARGES: 35 ILL ADM. CODE)
303.432)

R07-21
(Rulemaking – Water)

NOTICE OF FILING

TO: Kathleen M. Crowley
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph Street,
Suite 11-500
Chicago, IL 60601

Illinois Pollution Control Board
John Therriault
100 West Randolph
Suite 11-500
Chicago, IL 60601

PLEASE TAKE NOTICE that on April 20, 2011 we filed with the Office of the Clerk of the Pollution Control Board a **Motion For Leave to File Instantly and Reply to Hearing Officer Order**, a copy of which is served upon you.

Respectfully submitted,

CITY OF JOLIET

By: 
One of Its Attorneys

Roy M. Harsch, Esq.
Drinker Biddle & Reath LLP
191 North Wacker Drive, Suite 3700
Chicago, IL 60606
(312) 569-1441 (Direct Dial)
(312) 569-3441 (Facsimile)

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MOTION TO FILE INSTANTER

Now comes the City of Joliet, by and through its attorneys, Drinker Biddle & Reath LLP, and hereby moves for approval instanter to file the attached Response to Hearing Officer Order in the above referenced matter.

In support of this Motion the City of Joliet states the following:

1. The Hearing Officer Order of March 10, 2011 was apparently not received and docketed in a manner that resulted in review by the attorneys in this case. The Hearing Officer Order was simply filed and thus not responded to in a timely manner.

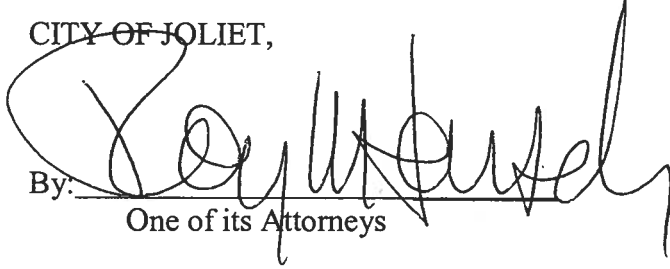
2 The undersigned has spoken with Ms. Deborah J. Williams regarding this Motion and has been authorized to state the Illinois Environmental Protection Agency does not object to this Motion and will not file a response.

3. The attached Status Report fully explains the steps that the City of Joliet has taken to move forward with the ultimate compliance program to allow it to ultimately move its discharge from Hickory Creek and the confluence with the Des Plaines River directly to the Des Plaines River.

WHEREFORE, the City of Joliet requests that the Illinois Pollution Control Board grant this Motion and allow the filing of the attached Response to the Hearing Officer Order.

Respectfully submitted,

CITY OF JOLIET,

By:  One of its Attorneys

Dated: April 20, 2011

Roy M. Harsch, Esq.
Drinker Biddle & Reath LLP
191 North Wacker Drive, Suite 3700
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RESPONSE TO HEARING OFFICER ORDER

The City of Joliet (“Joliet”) has proceeded with the necessary steps to apply for and hopefully ultimately be issued a State Revolving Loan funding (“SRLF”) from the Illinois Environmental Protection Agency (“IEPA”) to obtain funds necessary to pay for the construction of a new outfall from its East Side Waste Water Treatment plant direct to the Des Plaines River. For purposes of SRLF application and review by the IEPA, this project was initially linked to the loan application for funding of a new force main to allow flows from Joliet’s Black River Road pump station to Joliet’s new sewage treatment plant.

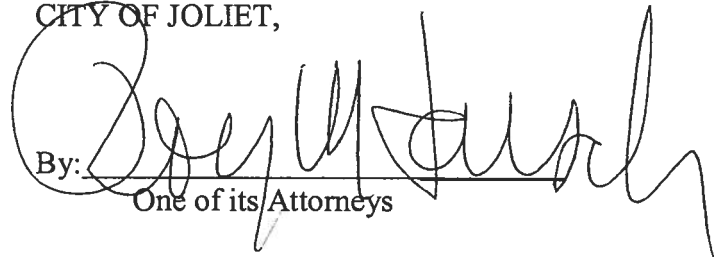
Following IEPA review and preliminary approval the loans have been again separated. Joliet received preliminary approval in December of 2010. Joliet has proceeded to bid the outfall construction project in March of 2011. The results of the bidding have been sent to IEPA. While Joliet has not yet received the final loan approval and thus the loan funds, it is not aware of any reason why this will not occur. Joliet currently projects that construction will commence in July of 2011 and that it will be complete in April 2012. Joliet believes that the new outfall will be available for use and placed into service sometime before the completion of construction. Because of the critical need for this project, Joliet will have to proceed with this project even if the very favorable SRLF is unexpectedly not obtained in the near future.

As set forth in the Amended Petition, Joliet is not aware of any other means by which it could comply with the Water Quality Based Effluent Limits (“WQBELs”) applicable to its discharge to Hickory Creek at the confluence of the Des Plaines River. In fact the present NPDES Permit that was recently reissued by the IEPA for Joliet’s discharge contains a modified set of limitations applicable to the direct discharge to the Des Plaines River when this project is complete. As discussed and agreed to by IEPA and Joliet, these limitations do not include the WQBELs for copper and fluoride that Joliet can not comply with which were included for the existing discharge to Hickory Creek.

Joliet is prepared to proceed to hearing on the amended petition. Joliet believes that when the hearing is held after public notice it should be able to testify that the SRLF will have been finalized, or testify that it has been denied and that Joliet will proceed with the construction project to move the outfall. Joliet believes that the rule change is necessary because of the Consent Order entered in the Circuit Court for the Twelfth Judicial Circuit in Will County, Illinois in Case No. 05 CH 593 which provides for interim limitations that Joliet can comply with while this present rule petition is pending or until such time as relief is granted or the petition is denied and a final order issued.

Respectfully submitted,

CITY OF JOLIET,

By:  _____
One of its Attorneys

CH01/ 25701210.1

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached Joliet's Motion for Leave to File Instant and Response to Hearing Officer Order on April 20, 2011 by hand deliver to:

Kathleen M. Crowley
Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

Illinois Pollution Control Board
John Therriault
100 W. Randolph Street - Suite 11-500
Chicago, IL 60601

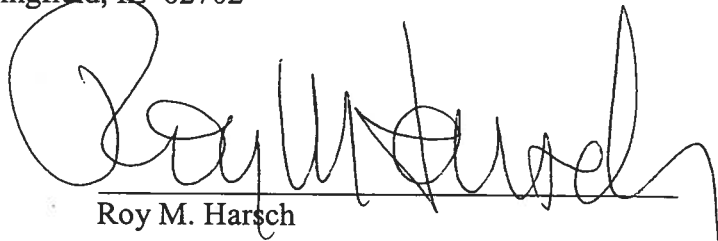
and by first class mail to the following list:

Albert Ettinger
Senior Staff Attorney
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35 E. Wacker Drive – Suite 1300
Chicago, IL 60601

Mitchell Cohen
General Counsel
Illinois Department of Natural Resources
One Natural Resources
Springfield, IL 62702

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Chief, Division of the Attorney General
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Chicago, IL 60602

Deborah J. Williams
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East - P.O. Box 19276
Springfield, IL 62702



Roy M. Harsch