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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

February 3, 2012

IN THE MATTER OF:)
)
WATER QUALITY STANDARDS AND) R08-9 (C)
EFFLUENT LIMITATIONS FOR THE) (Rulemaking - Water
CHICAGO AREA WATERWAY SYSTEM)
AND LOWER DES PLAINES RIVER)
PROPOSED AMENDMENTS TO 35 ILL.)
ADM. CODE 301, 302, 303, and 304)

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HEARING OFFICER ORDER

On September 23, 2011, the hearing officer granted a "Joint Emergency Motion to Vacate Deadlines in Subdocket C and Set Date for Filing of Joint Status Report" (Mot.). The joint motion was filed by: 1) the Metropolitan Water Reclamation District of Greater Chicago (District); 2) Illinois Environmental Protection Agency (IEPA); and 3) the Environmental Law and Policy Center, Friends of the Chicago River, Sierra Club Illinois Chapter, Natural Resources Defense Council, Openlands, Prairie Rivers Network, Alliance for the Great Lakes and Southeast Environmental Task Force (Environmental Groups) (collectively Movants). In granting the motion the hearing officer vacated the deadlines of October 3, 2011, and October 17, 2011 for filing of public comment and directed that a joint status report be filed by participants on November 21, 2011.

On November 21, 2011 the Board received the joint status report. In that report, Movants indicated that several meetings have been held and "significant progress was made" toward negotiating an agreement. Movants requested another 30 days to continue to work toward an agreement.

On November 30, 2011, an additional 30 days was granted and a new status report was directed to be filed by January 3, 2012. Movants filed a status report on January 3, 2012, indicating that a tentative agreement had been reached and asked that the hearing officer set a public comment deadline for February 17, 2012.

On January 17, 2012, several other participants in this rulemaking filed responses to the Movants status report. Stepan Company, Illinois Environmental Regulatory Group, Midwest Generation LLC, and ExxonMobil Oil Corporation all asked that a deadline be set for the Movants to file the tentative agreement and then allow time for all participants to review the agreement before submitting final comments.

On January 27, 2012, the District and the Environmental Groups responded to the concerns raised in the January 17, 2012 filings and provided a listing of areas of agreement between the District and the Environmental Groups.

On January 30, 2012, the IEPA responded to the January 17, 2012 filings noting that the IEPA expects the hearing officer will set a deadline for public comment and allow for responses as was originally set out by the hearing officer. IEPA clarifies its position on the tentative agreement and does not plan to amend any language from the original proposal.

As the participants not a party to the tentative agreement asked that the final comment deadline not be set until the tentative agreement was filed, and that agreement is now a part of the record, the hearing officer will set a final comment deadline. When the comment period was first established at the close of August 16, 2011 hearing, the comment period included a two-week response period and there will be a response period included here. In previous hearing officer orders, the hearing officer made clear that comments would be due no sooner than 30 days after the status report was received. Given the filings that followed the status report, a deadline for comments will be 30 days from the date of this order. Therefore, final pre-first notice comments must be received by the Board no later than March 5, 2012. Commentors may file responsive comments by March 19, 2012. The mailbox rule does not apply to the filing of the comments. *See* 35 Ill. Adm. Code 101.300.

IT IS SO ORDERED.



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