

**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 ) Subdocket C  
PLAINES RIVER: 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 5th day of March, 2012, I, on behalf of the Metropolitan Water Reclamation District of Greater Chicago, electronically filed **COMMENTS OF METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO ON PROPOSED AQUATIC LIFE DESIGNATED USES** with the Office of the Clerk of the Illinois Pollution Control Board.

Dated: March 5, 2012

**METROPOLITAN WATER  
RECLAMATION DISTRICT OF  
GREATER CHICAGO**

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

Fredric P. Andes  
David T. Ballard  
**BARNES & THORNBURG LLP**  
One North Wacker Drive  
Suite 4400  
Chicago, Illinois 60606  
(312) 357-1313

**PROOF OF SERVICE**

The undersigned, a non-attorney, certifies, under penalties of perjury pursuant to 735 ILCS 5/1-109, that I caused a copy of the forgoing, the **COMMENTS OF METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO ON PROPOSED AQUATIC LIFE DESIGNATED USES**, to be served via First Class Mail, postage paid, from One North Wacker Drive, Chicago, Illinois, on the 5th day of March, 2012, upon the attorneys of record on the attached Service List.

*/s/ Barbara E. Szynalik*

---

Barbara E. Szynalik

**SERVICE LIST**

Richard J. Kissel  
Roy M. Harsch  
Drinker, Biddle, Gardner, Carton  
191 North Wacker Drive  
Suite 3700  
Chicago, IL 60606-1698

Deborah J. Williams, Assistant Counsel  
Stefanie N. Diers, Assistant Counsel  
IEPA  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

Thomas W. Dimond  
Ice Miller LLP  
200 West Madison Street  
Suite 3500  
Chicago, IL 60606-3417

Robert VanGyseghem  
City of Geneva  
1800 South Street  
Geneva, IL 60134-2203

Matthew J. Dunn, Chief  
Office of the Attorney General  
Environmental Bureau North  
Suite 1800  
69 West Washington Street  
Chicago, IL 60602

Andrew Armstrong  
Environmental Counsel  
Environmental Division  
69 West Washington Street  
Suite 1800  
Chicago, IL 60602

Claire A. Manning  
Brown, Hay & Stephens LLP  
700 First Mercantile Bank Building  
205 South Fifth Street  
P.O. Box 2459  
Springfield, IL 62705-2459

Katherine D. Hodge  
Monica T. Rios  
Matthew C. Read  
Hodge Dwyer & Driver  
3150 Roland Avenue  
P.O. Box 5776  
Springfield, IL 62705-5776

Jerry Paulson  
McHenry County Defenders  
124 Cass Street  
Woodstock, IL 60098

Lisa Frede  
Chemical Industry Council of Illinois  
1400 East Touhy Avenue  
Suite 110  
Des Plaines, IL 60018

James L. Daugherty, District Manager  
Thorn Creek Basin Sanitary District  
700 West End Avenue  
Chicago Heights, IL 60411

Tracy Elzemeyer, General Counsel  
American Water Company Central Region  
727 Craig Road  
St. Louis, MO 63141

*Electronic Filing - Received, Clerk's Office, 03/05/2012*

Bernard Sawyer  
Thomas Granato  
Metropolitan Water Reclamation District  
6001 West Pershing Road  
Cicero, IL 60804-4112

Keith I. Harley  
Elizabeth Schenkier  
Chicago Legal Clinic, Inc.  
205 West Monroe Street  
4th Floor  
Chicago, IL 60606

W.C. Blanton  
Husch Blackwell Sanders LLP  
4801 Main Street  
Suite 1000  
Kansas City, MO 64112

Traci Barkley  
Prarie Rivers Networks  
1902 Fox Drive  
Suite 6  
Champaign, IL 61820

James Huff, Vice President  
Huff & Huff, Inc.  
915 Harger Road  
Suite 330  
Oak Brook, IL 60523

Joe Deal  
City of Chicago - Mayor's Office of  
Intergovernmental Affairs  
121 North LaSalle Street  
City Hall - Room 509  
Chicago, IL 60602

Irwin Polls  
Ecological Monitoring and Assessment  
3206 Maple Leaf Drive  
Glenview, IL 60025

Frederick D. Keady, P.E., President  
Vermilion Coal Company  
1979 Johns Drive  
Glenview, IL 60025

James E. Eggen  
Director of Public Works & Utilities  
City of Joliet, Department of Public  
Works & Utilities  
921 East Washington Street  
Joliet, IL 60431

Ann Alexander, Sr. Attorney  
Natural Resources Defense Council  
2 North Riverside Plaza  
Floor 23  
Chicago, IL 60606

Beth Steinhorn  
2021 Timberbrook  
Springfield, IL 62702

Dr. Thomas J. Murphy  
DePaul University  
2325 North Clifton Street  
Chicago, IL 60614

Vicky McKinley  
Evanston Environment Board  
223 Grey Avenue  
Evanston, IL 60202

Kenneth W. Liss  
Andrews Environmental Engineering  
3300 Ginger Creek Drive  
Springfield, IL 62711

*Electronic Filing - Received, Clerk's Office, 03/05/2012*

Marc Miller, Senior Policy Advisor  
Jamie S. Caston, Policy Advisor  
Office of Lt. Governor Pat Quinn  
Room 414 State House  
Springfield, IL 62706

Bob Carter  
Bloomington Normal Water  
Reclamation District  
P.O. Box 3307  
Bloomington, IL 61702-3307

Albert Ettinger, Senior Staff Attorney  
Jessica Dexter  
Environmental Law & Policy Center  
35 East Wacker Drive  
Suite 1300  
Chicago, IL 60601

Kay Anderson  
American Bottoms RWTF  
One American Bottoms Road  
Sauget, IL 62201

Tom Muth  
Fox Metro Water Reclamation District  
682 State, Route 31  
Oswego, IL 60543

Kristy A. N. Bulleit  
Brent Fewell  
Hunton & Williams LLC  
1900 K Street, NW  
Washington, DC 20006

Jack Darin  
Sierra Club  
Illinois Chapter  
70 East Lake Street  
Suite 1500  
Chicago, IL 60601-7447

Lyman C. Welch  
Manager, Water Quality Programs  
Alliance for the Great Lakes  
17 North State Street  
Suite 1390  
Chicago, IL 60602

Marie Tipsord, Hearing Officer  
John Therriault, Assistant Clerk  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

Mark Schultz  
Regional Environmental Coordinator  
Navy Facilities and Engineering Command  
201 Decatur Avenue  
Building 1A  
Great Lakes, IL 60088-2801

Stacy Meyers-Glen  
Openlands  
25 East Washington  
Suite 1650  
Chicago, Illinois 60602

Susan M. Franzetti  
Nijman Franzetti LLP  
10 South LaSalle Street  
Suite 3600  
Chicago, IL 60603

Jeffrey C. Fort  
Ariel J. Teshner  
Sonnenschein Nath & Rosenthal LLP  
233 South Wacker Drive  
Suite 7800  
Chicago, IL 60606-6404

**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 ) Subdocket C  
PLAINES RIVER: PROPOSED )  
AMENDMENTS TO 35 Ill. Adm. Code )  
Parts 301, 302, 303 and 304

**COMMENTS OF METROPOLITAN WATER RECLAMATION DISTRICT OF  
GREATER CHICAGO ON PROPOSED AQUATIC LIFE DESIGNATED USES**

In its testimony in this matter, the District has provided information explaining its concerns with the designated uses for protection of aquatic life that IEPA has proposed in this rulemaking for the various reaches of the CAWS. The District has also provided an alternative proposal, based on habitat evaluations performed for the District and other relevant information. That proposal provides different designated uses for some reaches of the CAWS, and also provides a “wet weather designated use” that would apply during wet-weather events and for a defined period of time after those events. The District also suggested water quality criteria for dissolved oxygen that would apply to those reaches. The District’s concerns, and the key elements of its proposal, are summarized in the testimony of Jennifer Wasik (Exhibit #461) and Adrienne Nemura (Exhibit #465), both filed with the Board on February 2, 2011. The details of the proposal were provided to the Board in a submittal by the District (PC #1031) on June 17, 2011.

As the Board is aware, the District has recently been engaged in discussions with other parties to this rulemaking – the Environmental Groups<sup>1</sup> and Illinois EPA –

---

<sup>1</sup> The term “Environmental Groups” refers to the following organizations: Natural Resources Defense Council, Environmental Law and Policy Center, Friends of the Chicago River, Openlands, Southeast Environmental Task Force, and Sierra Club – Illinois Chapter.

regarding a possible resolution of some of the issues regarding aquatic life designated uses and aquatic life water quality standards for dissolved oxygen (DO). As a result of those discussions, the environmental groups and the District informed the Board that they had reached a tentative agreement on those issues, which was filed with the Board on January 27, 2012. Since then, the environmental groups and the District have continued discussing those issues, and both Illinois EPA and U.S. EPA have been involved in those discussions as well. The discussions are ongoing. The District is hopeful that those discussions will lead to an agreement among all of those parties that can be submitted to the Board in the very near future with a recommended course of action, including issuance of variances relating to the District's NPDES permits.

Such an agreement has not been reached as of today. Therefore, for purposes of this filing, the District continues to state the issues and concerns that it has raised as to the IEPA proposed aquatic life designated uses in its testimony in this matter. As noted above, those issues and concerns are best summarized in the testimony of Ms. Wasik (Exhibit #461) and Ms. Nemura (Exhibit #465), and the District's recommended solutions to those concerns are set forth in its proposal for aquatic life designated uses and DO water quality standards (PC #1031). If the Board decides to move toward a First Notice on aquatic life designated uses, then the District urges that those issues and concerns be addressed, and that its proposal be considered. However, the District suggests that it would be more appropriate for the Board to postpone a decision on this matter while the District and the other parties referenced above continue their discussions, since if a resolution is reached, the issues that will need resolution by the Board will change substantially. The District is hopeful that a resolution will be reached

within the next few months. During that time, the District suggests that monthly progress reports to the Board by the parties involved in the discussions would help ensure that there is no undue delay in resolving those issues.

Respectfully submitted,

METROPOLITAN WATER  
RECLAMATION DISTRICT OF  
GREATER CHICAGO

By:

/s/ Fredric P. Andes

Fredric P. Andes

David T. Ballard

**BARNES & THORNBURG LLP**

One North Wacker Drive

Suite 4400

Chicago, Illinois 60606

(312) 357-1313