

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FLAGG CREEK WATER RECLAMATION)
DISTRICT)
)
Complainant)
)
v.)
)
VILLAGE OF HINSDALE, ILLINOIS)
DEPARTMENT OF TRANSPORTATION, and)
DUPAGE COUNTY)
Respondents.)

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MAR 30 2012

STATE OF ILLINOIS
Pollution Control Board
PCB 06-141
(Citizens Enforcement)

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NOTICE OF FILING

To: PERSONS ON ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have filed today with the Office of the Clerk of the Illinois Pollution Control Board, 100 West Randolph Street, Suite 11-500, Chicago, Illinois, an original and nine copies of the MOTION TO DISMISS THE ILLINOIS DEPARTMENT OF TRANSPORTATION, a copy of which is herewith served upon you.

Respectfully submitted,

Roy M. Harsch
John A. Simon
Drinker Biddle & Reath LLP
191 North Wacker Drive, Suite 3700
Chicago, Illinois 60606
(312) 569-1441 (phone)
(312) 569-3441 (facsimile)
roy.harsch@dbr.com

Dated: March 30, 2012

THIS FILING IS BEING SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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**STATE OF ILLINOIS
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**PCB 06-141
(Citizens Enforcement)**

**FLAGG CREEK WATER RECLAMATION DISTRICT
MOTION TO DISMISS THE ILLINOIS DEPARTMENT OF TRANSPORTATION**

NOW COMES FLAGG CREEK WATER RECLAMATION DISTRICT (“Complainant”), by and through its attorneys Drinker Biddle & Reath LLP, and hereby moves to voluntarily dismiss Respondent, the Illinois Department of Transportation (“IDOT”) from this matter. In support thereof Complainant states as follows:

1. In the initial complaint filed on March 3, 2006 Complainant alleged that IDOT as a result of its activities with respect to 55th Street in Hinsdale increased the amount of stormwater that entered into the 55th Street Interceptor owned by Complainant which resulted in the problems regarding unauthorized Combined Sewer Overflows, limited Complainant’s capacity and ability to treat wastes in conformance with regulatory requirements, and resulted in various violations of the Illinois Environmental Protection Act and Illinois Pollution Control Board Water Pollution Regulations.

2. These allegations were based upon engineering reviews that existed at the time of the complaint.

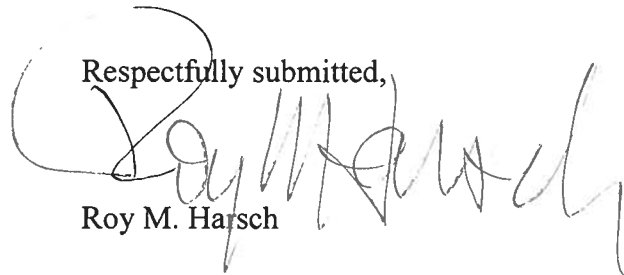
3. Subsequently the parties have engaged in substantial discovery and in numerous negotiations and have performed and shared additional engineering work which included flow monitoring in the 55th Street Interceptor. As a result of this additional work, Complainant now believes, contrary to its original understanding, that IDOT only contributes a very small portion of the total wet weather flow to the 55th Street Interceptor.

4. IDOT has completed the installation of flow restrictors on the portion of 55th Street that it has jurisdiction over which will assist Complainant in managing stormwater flow in the 55th Street Interceptor.

5. Complainant and IDOT through its attorneys have discussed this Motion to Dismiss and have agreed that each party should bear its own fees and costs.

Wherefore, for all the foregoing reasons Complainant respectfully requests that the Illinois Pollution Control Board approve its Motion to Dismiss the Illinois Department of Transportation as provided herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Roy M. Harsch", written over a large, faint circular stamp or watermark.

Roy M. Harsch

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John A. Simon
Drinker Biddle & Reath LLP
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Chicago, Illinois 60606
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roy.harsch@dbr.com

Dated: March 30, 2012

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached FLAGG CREEK WATER RECLAMATION DISTRICT MOTION TO DISMISS THE ILLINOIS DEPARTMENT OF TRANSPORTATION on March 30, 2012 by hand delivery to:

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

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

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and by first class mail to the following list:

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