

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ROCK RIVER WATER)
RECLAMATION DISTRICT)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

13-11
PCB 12-_____
(Permit Appeal-Water)

RECEIVED
CLERK'S OFFICE
AUG. 31 2012
STATE OF ILLINOIS
Pollution Control Board

ORIGINAL
RETURN TO CLERK'S OFFICE

NOTICE OF FILING

TO: Illinois Environmental Protection Agency
Alan Keller
Division of Water Pollution Control
Manager, Permit Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

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

PLEASE TAKE NOTICE that on **Friday, August 31, 2012**, we filed with the Office of the Clerk of the Pollution Control Board an original and ten copies of the attached **Rock River Water Reclamation District's Petition for Review**, a copy of which is served upon you.

Respectfully submitted,

Rock River Water Reclamation District

By: Ray Marsch
One of Its Attorneys

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Pollution Control Board

13-11

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PCB 2012-
(Permit Appeal-Water)

PETITION FOR REVIEW

NOW COMES, Petitioner, ROCK RIVER WATER RECLAMATION DISTRICT (hereinafter, "RRWRD"), by and through its attorneys, Drinker Biddle & Reath LLP, pursuant to Section 40 (a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) ("Act") and 35 Ill. Adm. Code § 105.204(a.) Subpart B, and petitions the Illinois Pollution Control Board ("Board") for review of the Illinois Environmental Protection Agency's ("IEPA") denial of RRWRD's application to issue a construction and operating permit by IEPA on August 1, 2012.

In support thereof, RRWRD states as follows:

1. RRWRD owns and operates a wastewater treatment plant in Rockford, Illinois.
2. RRWRD operates water pollution control facilities as part of its wastewater treatment plant operation. RRWRD owns and operates sewers tributary to its wastewater treatment plant.
3. RRWRD determined that it should construct and operate an excess flow basin to be located adjacent to it's wastewater treatment plant to address extreme wet weather situations where the amount of flow coming to the wastewater treatment plant exceeds the maximum practical flow that can be treated in the wastewater treatment plant. Currently the plant has a maximum hydraulic capacity of approximately 80 million gallons per day ("MGD"). As part of

the determination, modeling was performed for a 10-year, twenty four hour rain fall events. This modeling showed that the peak flow rate is 145.4 MGD. The antecedent moisture model, which modeled the last fifty years of rain events in Rockford, demonstrated that the treatment plant capacity does not have sufficient capacity for a 10-year, 24 hour rain event, thus resulting in flows to backup into the sewer system. These sewer backups result in a number of problems including sanitary sewer overflows and basement backups. It was determined that construction of a 25 MGD capacity excess flow basin and associated pumps adjacent to the head works would be the most acceptable solution to this problem.

4. After reviewing alternate proposals the RRWRD chose to build this basin using 'Green' concepts. The modeling predicted that the current wastewater treatment capacity will be exceeded on the average once per year. The concentration of BOD₅ and Total Suspended Solids will be quite low during these intense/prolonged events when the basin is being utilized. Based upon the modeling, a 25 MG retention basin could be constructed adjacent to the Rock River on land that the RRWRD owns to prevent basement backups for a 10-year event. The plan was to construct this basin using 'Green' concepts which included the construction of a wetland in the bottom that would be irrigated with treated wastewater, and prairie grass on the side slopes. The RRWRD has sufficient hydraulic capacity that the basin will be emptied with 48 hours of filling, which is short enough that the wetland plants will survive. This constructed wetland would have a permeable bottom and would replace a compacted clay lined basin or similar concrete lined basin.

5. All of the adjacent properties to the proposed basin are served by the City of Rockford's water supply system. As such the use of ground water is prohibited in this area. Groundwater flow below the proposed basin is predicated on the level of the Rock River.

6. The RRWRD's environmental consultant approached the Illinois Environmental Protection Agency ("IEPA") regarding this proposed project and an initial meeting with IEPA occurred thereafter on March 10, 2011. Numerous follow up telephone and in person conferences were held. On April 4, 2012 the RRWRD submitted a cover letter transmitting an application for a construction and operating permit for the proposed basin. They also submitted a substantial amount of information regarding the basis for design and responses to questions and objections that it had received as a result of its dialog with the IEPA. A copy of the transmittal letter and application form are set forth and included herein as Exhibit A to this petition.

7. The IEPA denied the requested permit on August 1, 2012. A copy of this denial is attached and incorporated herein as Exhibit B to this Petition.

8. RRWRD believes that there is no basis in law or fact to support this denial. Contrary to the assertions in the denial, the information provided to IEPA to support the application clearly shows that water pollution will not occur as a result of the this project and that all applicable regulatory requirements will be met. It is clear that IEPA has incorrectly based its denial on a belief that the proposed excess flow lagoon is somehow equivalent to either a waste stabilization pond or an aerated lagoon or otherwise subject to the design standards it has promulgated for such given the reference to both 35 Ill. Adm. Code 370.930(b)(4) and (d)(2)(D) which are part of the standards for what is headed "Waste Stabilization Ponds and Aerated Lagoon".

9 As the record before the IEPA will show making the bottom of the proposed equalization basin impervious would destroy the environmental benefit that the proposed irrigated wetland would afford and is not needed to prevent water pollution. The construction of an impervious liner has other adverse impacts due to cost, natural resources required for

construction, energy to transport needed clay or other materials, technical issues due to hydraulic lifting concerns and finally visual issues of a large basin that would be dry 363 days per year.

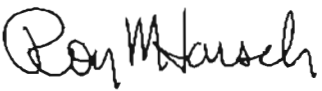
10. Pursuant to Section 40 of the Act, the applicant has 35 days from the date of the denial from the IEPA to petition the Board for a hearing to contest IEPA's decision to deny the application. *415 ILCS 5/40(a)(1)(2006)*.

11. RRWRD received the denial from IEPA dated August 1, 2012 on August 4, 2012 and is requesting a hearing before the Board within the initial 35 day appeal period pursuant to *415 ILCS 5/40(a)(1)(2006)*.

WHEREFORE, Petitioner, RRWRD, petitions the Illinois Pollution Control Board for a hearing on the IEPA's action to deny the requested construction and operating permit.

Respectfully submitted,

ROCK RIVER WATER
RECLAMATION DISTRICT
Petitioner,

By: 
One of its Attorneys

Dated: August 31, 2012


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

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached Petition to Review, by First Class Mail, postage pre-paid on Friday, August 31, 2012 upon the following:

Illinois Environmental Protection Agency
Alan Keller
Division of Water Pollution Control
Manager, Permit Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

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Pollution Control Board



Roy M. Harsch

CH01/26011314.1

Exhibit A

ROCK RIVER WATER RECLAMATION DISTRICT

3501 Kishwaukee Street
P.O. Box 7480
Rockford, IL 61126-7480
(815) 387-7660

DATE: April 4, 2012

TO: Illinois Environmental Protection Agency
Permit Section, Division of Water Pollution Control
P.O. Box 19276
Springfield, Illinois 62794-9276

ATTENTION: Al Keller

SUBJECT: Excess Flow Station at Rockford WWTP, CIP #1106

Mr. Keller:

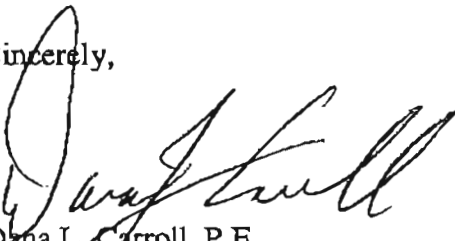
We are sending you the following:

<u>Quantity</u>	<u>Description and/or Title</u>	<u>Action</u>
2	Construction & Operating Permit Application	For approval
2	Plans and Technical Specifications	For approval
1	Prelim. Design Report, February 2011	For your use
1	Final pump sizing calculations, PS buoyancy calculations, and Basin drain pipe sizing calculations	For your use
1	4/22/11 Email from IEPA Permit Section w/ Groundwater Section comments memo.	For your use
1	6/28/11 Huff & Huff Constructed Wetland Response to IEPA comments	For your use
1	Excerpt from PCB Order on adoption of 35, F, I, Part 620 & 620.301	For your use
1	IDNR EcoCat Report	For your use
1	IHPA Response Letters and Report	For your use
1	Illinois Waterways Joint Permit Application, COE, IDNR-OWR, & IEPA	For your use
1	IEPA NOI Form	For your use
1	Grundy County Truck Wash Operating Permit	For your use

Please review and approve the enclosed permit application. Please note that certain supporting information is provided to justify our position that a constructed wetland is appropriate in this case. Note the reference to the PCB's position on anti-degradation on this topic. Also, the Agency issued a permit in a similar case in Grundy County; a copy of that permit is included.

If you have any questions, please contact me at 815.387.7663.

Sincerely,



Dana L. Carroll, P.E.
Engineering Manager

cc: File, Greg Droessler, Jim Huff, Roy Harsch, Larry McFall

Enc.

JOINT APPLICATION FORM FOR ILLINOIS

ITEMS 1 AND 2 FOR AGENCY USE

1. Application Number	2. Date Received
-----------------------	------------------

3. and 4. (SEE SPECIAL INSTRUCTIONS) NAME, MAILING ADDRESS AND TELEPHONE NUMBERS

3a. Applicant's Name: Dana Carroll, P.E., Engineering Manager Company Name (if any): Rock River Water Reclamation District Address: 3501 Kishwaukee St. Rockford, IL 61109 Email Address: dcarroll@rwrtd.dst.il.us	3b. Co-Applicant/Property Owner Name (if needed or if different from applicant): Company Name (if any): Address: Email Address:	4. Authorized Agent (an agent is not required): Dana Carroll, P.E., Engineering Manager Company Name (if any): Rock River Water Reclamation District Address: 3501 Kishwaukee St. Rockford, IL 61109 Email Address: dcarroll@rwrtd.dst.il.us
Applicant's Phone Nos. w/area code Business: (815)387-7663 Residence: Cell: Fax: (815)387-7463	Applicant's Phone Nos. w/area code Business: Residence: Cell: Fax:	Agent's Phone Nos. w/area code Business: (815)387-7663 Residence: Cell: Fax: (815)387-7463

STATEMENT OF AUTHORIZATION

I hereby authorize, Dana Carroll, P.E. to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

 Applicant's Signature

 Date

5. ADJOINING PROPERTY OWNERS (Upstream and Downstream of the water body and within Visual Reach of Project)

Name	Mailing Address	Phone No. w/area code
a. City of Rockford, Public Works Dept.	425 E. State St., Rockford, IL 61109	(815)987-5570
b. Rockford Park District, Capital Management, Dept.	401 S. Main St., Rockford, IL 61109	(815)987-8800
c. Robert Hancock	3045 Grant Park Blvd, Rockford, IL 61109	(815)397-5040
d. Robert Curry	3105 Grant Park Blvd, Rockford, IL 61109	(815)397-5139

6. PROJECT TITLE:
 Excess Flow Station CIP #1106

7. PROJECT LOCATION:
 East and North of Wastewater Treatment Facility

LATITUDE: 42.22778 °N LONGITUDE: 89.09861 °W	UTM's Northing: 4677198.779348975 Easting: 326815.4187448459										
STREET, ROAD, OR OTHER DESCRIPTIVE LOCATION 3501 Kishwaukee St. Rockford, IL 61109	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 15%;">LEGAL DESCRIPT</th> <th style="width: 15%;">QUARTER</th> <th style="width: 15%;">SECTION</th> <th style="width: 20%;">TOWNSHIP NO.</th> <th style="width: 35%;">RANGE</th> </tr> <tr> <td style="text-align: center;">SE</td> <td style="text-align: center;">3</td> <td style="text-align: center;">43N</td> <td style="text-align: center;">1E</td> <td></td> </tr> </table>	LEGAL DESCRIPT	QUARTER	SECTION	TOWNSHIP NO.	RANGE	SE	3	43N	1E	
LEGAL DESCRIPT	QUARTER	SECTION	TOWNSHIP NO.	RANGE							
SE	3	43N	1E								
<input checked="" type="checkbox"/> IN OR <input type="checkbox"/> NEAR CITY OF TOWN (check appropriate box) Municipality Name City of Rockford	WATERWAY Rock River										
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 25%;">COUNTY</th> <th style="width: 25%;">STATE</th> <th style="width: 50%;">ZIP CODE</th> </tr> <tr> <td style="text-align: center;">Winnebago</td> <td style="text-align: center;">IL</td> <td style="text-align: center;">61109</td> </tr> </table>	COUNTY	STATE	ZIP CODE	Winnebago	IL	61109	RIVER MILE (if applicable)				
COUNTY	STATE	ZIP CODE									
Winnebago	IL	61109									

8. PROJECT DESCRIPTION (Include all features):

The project would be located just north of the existing wastewater treatment facility and would make it possible for the District to temporarily store approximately 25 mg of screened municipal wastewater influent. The main project components include a flow diversion interceptor pipe and screening structure, an excess flow pump station, and a 7.3 acre vegetated excess flow storage basin. The storage basin would be constructed to mimic a natural wetland area.

9. PURPOSE AND NEED OF PROJECT:

The project is intended to meet the excess flow storage requirement of RRWRD's Compliance Commitment Agreement (CCA) with the Illinois Environmental Protection Agency (IEPA).

COMPLETE THE FOLLOWING FOUR BLOCKS IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

10. REASON(S) FOR DISCHARGE:

The District has purchased many homes in the area north of the original WWTF site to remove these homes from the floodplain. The District proposed to regrade and use this area for an excess flow storage basin to be used during storm events. The project site is in an area owned by the District and near the WWTF to give the greatest benefit to the District.

11. TYPE(S) OF MATERIAL BEING DISCHARGED AND THE AMOUNT OF EACH TYPE IN CUBIC YARDS FOR WATERWAYS:

TYPE: The existing soils are sandy, loamy materials. The material will be regraded on site.

AMOUNT IN CUBIC YARDS:

Total Cut = 62,100 CY. Total Fill = 45,700 CY. Approximately 16,400 CY of material is scheduled to be hauled off site as part of the project.

12. SURFACE AREA IN ACRES OF WETLANDS OR OTHER WATERS FILLED (See Instructions)

Approximately 1.5 acres of wetland will be disturbed by the project, but 8.1 acres of wetland will be created.

13. DESCRIPTION OF AVOIDANCE, MINIMIZATION AND COMPENSATION (See Instructions)

The natural drainage areas created north and south of the project site will be protected as part of the project. The new basin will create a net gain of 6.6 acres of new wetland within the berm area. While the site grading will impact a 10 acre area on site, the improvements are a continuation of the District's restoration plan for this previously residential area (see attached 1978 aerial photo). The District previously completed the addition of natural drainage ditches in this area for a net cut of approximately 5,000 CY. An additional 16,400 CY of material will be removed from this area as part of the project.

14. Date activity is proposed to commence

June, 2013

Date activity is expected to be completed

December, 2013

15. Is any portion of the activity for which authorization is sought now complete?

Yes

No

NOTE: If answer is "YES" give reasons in the Project Description and Remarks section. Indicate the existing work on drawings.

Month and Year the activity was completed

16. List all approvals or certification and denials received from other Federal, Interstate, state, or local agencies for structures, construction, discharges or other activities described in this application.

Issuing Agency

Type of Approval

Identification No.

Date of Application

Date of Approval

Date of Denial

17. CONSENT TO ENTER PROPERTY LISTED IN PART 7 ABOVE IS HEREBY GRANTED.

Yes

No

18. APPLICATION VERIFICATION (SEE SPECIAL INSTRUCTIONS)

Application is hereby made for the activities described herein. I certify that I am familiar with the information contained in the application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities.

Signature of Applicant or Authorized Agent

Date

Signature of Applicant or Authorized Agent

Date

Signature of Applicant or Authorized Agent

Date

Corps of Engineers
Revised 2010

IL Dep't of Natural Resources

IL Environmental Protection
Agency

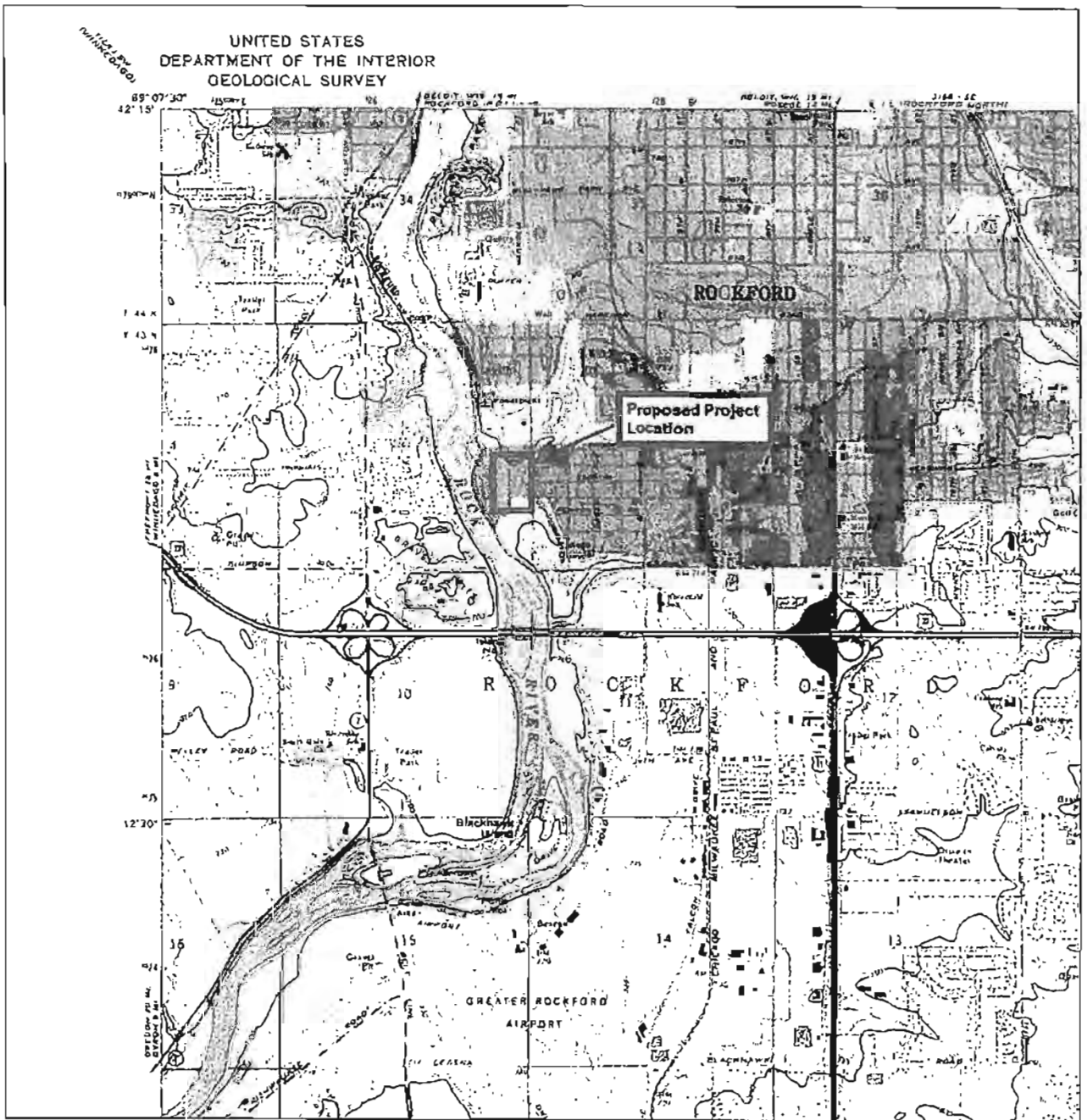
Applicant's Copy

SEE INSTRUCTIONS FOR ADDRESS

5. Additional Adjoining Property Owners (Upstream and Downstream of the water body and within Visual Reach of Project)

Name	Address		Phone No.
e. Colleen Paravechio	138 Brook Rd.	Rockford, IL 61109	
f. Stephan Baxter	146 Brook Rd.	Rockford, IL 61109	(815) 708-8010
g. Mary Thomas	131 Brook Rd.	Rockford, IL 61109	

LOCATION MAP





Handwritten notes in the upper right corner of the photograph, including the number '100' and some illegible text.

1978
WATER
SITE

Exhibit B



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397
PAT QUINN, GOVERNOR JOHN J. KIM, INTERIM DIRECTOR

217/782-0610

AUG 01 2012

Rock River Water Reclamation District
Atten: Steve Graceffa, District Director
3501 Kishwaukee Street
Rockford, IL 61109

ROCK RIVER WATER RECLAMATION DISTRICT

Re: **ROCK RIVER WRD - STP Excess Flow Basin**
Log No(s). 0317-12
Denial

Dear Mr. Graceffa:

This Agency has reviewed your Application for Permit and the supporting documents for the subject project which were received on April 6, 2012. This Agency must deny the permit for this project for the following reasons.

Sections 12 and 39 of the Environmental Protection Act (Act), 415 ILCS 5/12 and 39, prohibit the Agency from issuing a permit for any facility which would threaten, cause or allow the discharge of contaminants which might cause or tend to cause water pollution in Illinois. Section 39 of the Act also requires an applicant to submit proof to the Agency that the proposed facility will not cause a violation of the Act or the regulations adopted pursuant to the Act.

In addition to the above cited Sections of the Act, the permit application does not fulfill the requirements of 35 Ill. Adm. Code 309.241.

The following information, clarification or corrections must be provided for us to complete our technical review and are to be considered specific reasons why the Act and the regulations adopted pursuant to the Act will not be met:

A seal is required in the bottom and embankments of the excess flow storage basin per Section 370.930 d)2)D) of the Illinois Recommended Standards For Sewage Works. The seal shall have a permeability of less than 1×10^{-7} cm per second. Provision shall be made in the specifications for demonstrating the permeability of the seal after completion of construction and prior to filling the basin.

Also, an appropriate groundwater monitoring system must be proposed, according to IL Adm. Code 370.930 b)4).

The Agency will be pleased to reevaluate your permit application on receipt of your written request and the necessary information and documentation to correct or clarify the deficiencies noted above. The revised application will be considered filed on the date that the Agency receives your written request. Please reference the above-listed log number in your transmittal letter.

You have the right to appeal this denial to the Illinois Pollution Control Board within a 35 day period following the date shown on this letter.

Should you have any questions or comments regarding the above, please contact Francis Burba at 217/782-0610 or at the above address.

Sincerely,



Alan Keller, P.E.
Manager, Permit Section
Division of Water Pollution Control

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cc: EPA-Rockford FOS
Clark Dietz Engineers
Records - Municipal
Binds
GWS