

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SANITARY DISTRICT OF DECATUR,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 14-111
	)	(Time-Limited Water Quality Standard)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

TO: Mr. Don Brown  
Clerk of the Board  
Illinois Pollution Control Board  
100 W. Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
**(VIA ELECTRONIC MAIL)**

Carol Webb, Esq.  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
**(VIA ELECTRONIC MAIL)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the **PETITIONER'S MOTION FOR EXTENSION OF TIME**, copies of which are herewith served upon you.

Respectfully submitted,

SANITARY DISTRICT OF DECATUR,

Dated: June 30, 2017

By: /s/ Katherine D. Hodge  
Katherine D. Hodge

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**CERTIFICATE OF SERVICE**

I, the undersigned, on oath state the following:

That I have served the attached PETITIONER'S MOTION FOR EXTENSION OF TIME via electronic mail upon:

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Illinois Pollution Control Board  
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That my email address is [Katherine.Hodge@heplerbroom.com](mailto:Katherine.Hodge@heplerbroom.com).

That the number of pages in the email transmission is 8.

That the email transmission took place before 5:00 p.m. on the date of June 30, 2017.

/s/ Katherine D. Hodge  
Katherine D. Hodge

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SANITARY DISTRICT OF DECATUR, )  
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 Petitioner, )  
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 v. ) PCB 14-111  
 ) (Time-Limited Water Quality Standard)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

**PETITIONER'S MOTION FOR EXTENSION OF TIME**

NOW COMES Petitioner, SANITARY DISTRICT OF DECATUR ("District" or "Petitioner"), by and through its attorneys, HEPLERBROOM, LLC, and pursuant to 35 Ill. Admin. Code § 101.514, hereby requests that the Illinois Pollution Control Board ("Board") grant this Motion for Extension of Time to file an amended petition complying with Section 38.5 of the Illinois Environmental Protection Act ("Act") and 40 C.F.R. § 131.14 for an additional 90 days, i.e., until October 9, 2017. In support of its motion, Petitioner states as follows:

**I. BACKGROUND**

1. On February 21, 2014, the District filed its Petition for Extension of Variance ("Variance Petition") in this proceeding, PCB No. 14-111, requesting a one-year extension of its initial variance granted in PCB No. 09-125 from the Board's general use water quality standards for nickel at 35 Ill. Admin. Code §§ 302.208(e) and 304.105, as it applies to establishing water quality based effluent limits, for the continued discharge of nickel from the District's wastewater treatment plant located in Decatur, Macon County, Illinois, into the Sangamon River, pursuant to the terms and conditions outlined in the Variance Petition.

2. On April 17, 2014, the District met with the Illinois Environmental Protection Agency ("Illinois EPA") to discuss the pending request for variance extension, as well as issues

associated with the federal directive regarding “consistency with federal law” for water variances.

3. Since then, the District has filed, and the Board has granted, motions to stay this proceeding to allow the parties to continue making meaningful progress resolving these issues, particularly the District’s ongoing work with Illinois EPA and the United States Environmental Protection Agency (“USEPA”) in the District’s related site-specific rulemaking (“SSR”) proceeding, PCB No. 14-24. Specifically, on June 30, 2014, the District filed a petition for an SSR seeking to establish an alternative chronic water quality standard for nickel. *See* Petition for Site Specific Rule, PCB No. R14-24 (Ill.Pol.Control.Bd. June 30, 2014).

4. The District has been filing periodic status reports in both this proceeding and the related SSR proceeding. As indicated in those reports, the District has been continuously engaged with Illinois EPA and USEPA concerning the ongoing technical studies at issue in the SSR proceeding. *See* District’s Status Reports filed in PCB Nos. 14-111 and R14-24 (providing additional information about the status of the SSR proceeding and how it affects this proceeding).

## **II. CONVERSION OF THE DISTRICT’S VARIANCE PETITION INTO A PETITION FOR A TIME-LIMITED WATER QUALITY STANDARD**

5. On February 24, 2017, Public Act 99-937 was signed into law. This legislation created Section 38.5 of the Act, which provides the Board with authority to adopt time-limited water quality standards (“TLWQS”). Pursuant to Section 38.5(c) of the Act, the District’s pending Variance Petition in this proceeding was converted, by operation of law, into a petition for a TLWQS under Section 38.5.

6. Pursuant to Section 38.5(e) of the Act, Illinois EPA filed its 21-day response in this proceeding on March 16, 2017. In its response, Illinois EPA identified the District as the

only discharger or class of discharger affected by the nickel water quality standard, the affected water as the Sangamon River downstream of Lake Decatur, and the appropriate type of relief as an individual TLWQS. Illinois EPA did not identify any deadline for the District to file an amended petition. *See* Illinois EPA's Response to the Variance Petition, PCB 14-111 (Ill.Pol.Control.Bd. Mar. 16, 2017).

7. Pursuant to Section 38.5(f) of the Act, the Board entered its 30-day order in this proceeding on April 12, 2017. In its order, the Board found that, based on Illinois EPA's response, the District is the only discharger that may be covered by the requested standard. Further, the Board's order established a deadline of May 12, 2017, for the District to file an amended petition complying with Section 38.5 of the Act and 40 C.F.R. § 131.14.

8. However, due to the District's ongoing work with Illinois EPA and USEPA concerning the technical studies at issue in the SSR proceeding, the District required additional time to prepare a substantially compliant TLWQS petition.

9. Accordingly, on April 24, 2017, the District filed a motion for extension of time requesting that the deadline to file a substantially compliant TLWQS petition be extended until 90 days after the Board adopts rules under Section 38.5(k) of the Act. *See* Petitioner's Motion for Extension of Time, at 1, 4-5 (Apr. 25, 2017).

10. On May 3, 2017, the Board granted the District's motion for an extension, but only until July 11, 2017, and required that the District file a status report by May 12, 2017. Board Order, at 1 (May 3, 2017). In addition, the Board required that any additional "[e]xtension requests must include sufficient information justifying why an extension is needed such as specific next steps and time frames to complete the next steps." *Id.*

**III. THE DISTRICT REQUIRES ADDITIONAL TIME TO SUBMIT AN AMENDED PETITION FOR A TLWQS**

11. The data and timing required for the District to file a substantially compliant petition for a TLWQS is dependent upon the District's completion of its technical studies in the related SSR proceeding.

12. Pursuant to the Board's May 3, 2017, order, the District filed a status report on May 12, 2017, indicating that the District expected to receive and review a draft toxicity test report from OSU by the end of May 2017, and that the District would then be distributing the report to Illinois EPA and USEPA for review and scheduling a conference call to discuss any comments. Status Report, at 4 (May 12, 2017).

13. The District received and reviewed OSU's draft toxicity test report at the end of May 2017 and provided a copy of the draft report to Illinois EPA and USEPA for review and comment on June 1, 2017.

14. On June 15, 2017, the parties held a conference call to discuss OSU's draft report and any comments or questions from Illinois EPA and USEPA. During the call, OSU and the District's modeling consultant discussed the specific testing methodologies and results from the report. However, USEPA indicated that it needed additional time to review and internally discuss the report and requested that an additional follow-up conference call be scheduled. The parties have scheduled this follow-up call for July 18, 2017, during which the District understands that USEPA and Illinois EPA intend to discuss any comments or questions that they may have regarding OSU's draft report.

15. Thus, the District has completed its analysis of the most recent round of toxicity testing requested by USEPA, and OSU is awaiting finalizing its draft toxicity test report pending USEPA's and Illinois EPA's review and conference call on July 18, 2017. After the July 18 call,

the District will need to address any comments received from USEPA and Illinois EPA, OSU will need to finalize its toxicity test report, and then the District will be in a position to finish work on its petitions.

16. The District respectfully requests additional time to be able to first complete its work with USEPA and Illinois EPA in the SSR matter before proceeding with the related, amended petition for a TLWQS.

17. The Respondent, Illinois EPA, has affirmed to the District that it believes that a 90-day extension of time will be a sufficient amount of time to file an amended petition complying with Section 38.5 of the Act and 40 C.F.R. § 131.14.

#### **IV. CONCLUSION**

18. The additional time requested to file an amended petition complying with Section 38.5 of the Act and 40 C.F.R. § 131.14 will allow the parties to make additional progress in the SSR proceeding and, in turn, this related TLWQS matter. Also, the District will submit a Status Report to the Board as requested by the Board or Hearing Officer. Finally, the District requests that all pending deadlines for any responses be stayed, as necessary, to accommodate this Motion for Extension of Time.

WHEREFORE, Petitioner, SANITARY DISTRICT OF DECATUR, moves the Illinois Pollution Control Board to grant this Motion for Extension of Time to file an amended petition complying with Section 38.5 of the Act and 40 C.F.R. § 131.14 for an additional 90 days, i.e., until October 9, 2017.

*[Signature on Following Page]*

Respectfully submitted,

SANITARY DISTRICT OF DECATUR,  
By One of Its Attorneys,

Dated: June 30, 2017

/s/ Katherine D. Hodge

Katherine D. Hodge

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