

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	Carol Webb, Esq.
Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 W. Randolph Street	1021 North Grand Avenue East
Suite 11-500	P.O. Box 19274
Chicago, Illinois 60601	Springfield, Illinois 62794-9274
(VIA ELECTRONIC MAIL)	(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: September 29, 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 September 29, 2017.

/s/ Katherine D. Hodge  
Katherine D. Hodge

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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 of the deadline to file an amended petition complying with Section 38.5 of the Illinois Environmental Protection Act ("Act") and 40 C.F.R. § 131.14 until December 31, 2018. 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. *See* Board Order, PCB 14-111, at 1-2 (Ill.Pol.Control.Bd. Apr. 12, 2017).

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, PCB 14-111, at 1, 4-5 (Ill.Pol.Control.Bd. 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, PCB 14-111, at 1 (Ill.Pol.Control.Bd. 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.*

11. On May 12, 2017, the District filed a status report with the Board detailing the current status of the amended TLWQS petition and the related SSR proceeding. *See* Petitioner’s Status Report, PCB 14-111, at 3-4 (Ill.Pol.Control.Bd. May 12, 2017).

12. Subsequently, on June 30, 2017, the District filed a motion for extension of time to file an amended TLWQS petition until October 9, 2017. *See* Petitioner’s Motion for Extension of Time, PCB 14-111, at 1, 5 (Ill.Pol.Control.Bd. June 30, 2017). In the motion, the District provided information justifying why an extension was needed and specific next steps, including completion of USEPA’s review of the draft toxicity report and discussion with USEPA and Illinois EPA regarding any comments on the draft report. *Id.* at 4-5.

13. On July 5, 2017, the Hearing Officer granted the District’s Motion for Extension of Time to file an amended petition until October 9, 2017. *See* Hearing Officer Order, PCB 14-111, at 1 (Ill.Pol.Control.Bd. July 5, 2017).

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

14. In its original petition filed in this proceeding, the District requested a variance extension in order to pursue a SSR for nickel. *See* Petition for Extension of Variance, PCB 14-111, at 2 (Ill.Pol.Control.Bd. Feb. 21, 2014). As the Board is aware, the District is currently pursuing the SSR in PCB No. R14-24.

15. The District needs to maintain the current TLWQS proceeding as an alternative form of relief in the event that the Board declines to promulgate the requested SSR.

16. Also, if the Board declines to promulgate the SSR, the District will need additional time to prepare and file a substantially compliant amended petition for a TLWQS.

17. The District will continue to diligently pursue its requested SSR. The District has made significant progress with USEPA and Illinois EPA in that proceeding and is in the process of finalizing its Amended Petition for SSR. The District will be filing its Amended Petition and supporting documentation by the deadline of November 30, 2017. Barring any unforeseen delays, the District anticipates that the SSR proceeding should come to a final decision within 12 months after the Amended Petition is filed. Thus, an extension of the deadline for the District to file an amended TLWQS petition until December 31, 2018 will allow for the SSR proceeding to conclude and, if necessary, for the District to file a substantially compliant amended TLWQS petition.

18. The District therefore respectfully requests additional time to be able to pursue the SSR matter before proceeding with the related, amended petition for a TLWQS.

#### **IV. CONCLUSION**

19. 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 proceed with the related SSR proceeding and, if necessary, will allow the District to prepare and file a substantially compliant amended TLWQS petition. 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 until December 31, 2018.

Respectfully submitted,

SANITARY DISTRICT OF DECATUR,  
By One of Its Attorneys,

Dated: September 29, 2017

/s/ Katherine D. Hodge

Katherine D. Hodge

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