

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

VILLAGE OF HOMEWOOD, HOMEWOOD)	
ILLINOIS, VILLAGE OF ORLAND PARK,)	
ORLAND PARK ILLINOIS, VILLAGE OF)	
MIDLOTHIAN, MIDLOTHIAN ILLINOIS,)	
VILLAGE OF TINLEY PARK, TINLEY PARK)	
ILLINOIS, EXXONMOBIL OIL CORPORATION,)	
VILLAGE OF WILMETTE, WILMETTE)	
ILLINOIS, CITY OF COUNTRY CLUB HILLS,)	
COUNTRY CLUB HILLS ILLINOIS, NORAMCO-)	
CHICAGO, INC., FLINT HILLS RESOURCES)	
JOLIET LLC, CITY OF EVANSTON, EVANSTON)	PCB 16-14 (Homewood)
ILLINOIS, VILLAGE OF SKOKIE, SKOKIE)	PCB 16-15 (Orland Park)
ILLINOIS, ILLINOIS DEPARTMENT OF)	PCB 16-16 (Midlothian)
TRANSPORTATION, METROPOLITAN WATER)	PCB 16-17 (Tinley Park)
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VILLAGE OF NEW LENOX, NEW LENOX,)	PCB 16-27 (IDOT)
ILLINOIS, CITY OF LOCKPORT, LOCKPORT)	PCB 16-29 (MWRDGC)
ILLINOIS, CATERPILLAR, INC., CITY OF)	PCB 16-30 (Richton Park)
CREST HILL, CREST HILL ILLINOIS, CITY OF)	PCB 16-31 (Lincolnwood)
JOLIET, JOLIET ILLINOIS, MORTON SALT,)	PCB 16-33 (Oak Forest)
INC., CITY OF PALOS HEIGHTS, PALOS)	PCB 19-7 (Village of Lynwood)
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ROMEOVILLE, ROMEOVILLE ILLINOIS,)	PCB 19-9 (New Lenox)
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ILLINOIS, OZINGA READY MIX CONCRETE,)	PCT 19-12 (Crest Hill)
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OAK LAWN, OAK LAWN ILLINOIS, VILLAGE)	PCB 19-16 (Romeoville)
OF DOLTON, DOLTON ILLINOIS, VILLAGE OF)	PCB 19-17 (IMTT Illinois)
GLENWOOD, GLENWOOD ILLINOIS,)	PCB 19-18 (Stepan)
VILLAGE OF MORTON GROVE, MORTON)	PCB 19-19 (Park Forest)
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ILLINOIS, VILLAGE OF LA GRANGE, LA)	PCB 19-24 (Oak Lawn)
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)	PCB 19-32 (Ingredion)

PCB 19-33 (Channahon)
PCB 19-34 (CCDTH)
PCB 19-35 (Niles)
PCB 19-36 (Skyway)
PCB 19-37 (Elwood)
PCB 19-38 (Chicago)
PCB 19-40 (Crestwood)
PCB 19-48 (Riverside)

CERTIFICATE OF SERVICE

The undersigned attorney certified, under the penalties of perjury pursuant to 735 ILCS 5/1-109, that he caused a copy of the foregoing **Response To Recommendation of Illinois Environmental Protection Agency** to be served via email transmittal from One N. Wacker Drive, Suite 4400, Chicago, Illinois 60606 on the 19th day of April, 2019 to the individuals listed on the attached service list.

/s/ Fred P. Andes

Fredric P. Andes

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included in the Joint Submittal as Appendices 23 through 28¹) supports the principle that reduction in salt usage is a long-term program. Moreover, it can take a significant amount of time, even after those new salt usage practices are implemented, for water quality benefits to appear, as indicated in the study that is included in the Joint Submittal as Appendix 29.²

2. The measures to be implemented are not fixed items, such as pieces of control equipment, that can simply be installed and then used. Practices will be put in place, including purchase of new trucks, training of employees, and application of salt and other materials in new ways. Some of those practices may work, and some may not. Some may have to be modified to suit particular site-specific circumstances. And, as staff and contractors start to apply the new measures, learning will take place, and over time, the measures will be applied in better, more efficient and effective ways.
3. Part of the process for implementing BMPs is to assess progress along the way, and make adjustments as appropriate. It will be difficult to assess progress in reducing salt usage, because the levels of salt usage in any given year will necessarily depend on the weather in that year. If there are years with little snow and ice, then salt usage will necessarily be lower, and conversely, in severe weather years, salt usage will be higher. So, in order to assess progress, it will be necessary to look at long-term trends, over a number of years, after dischargers have been able to obtain the equipment, train the staff, and become adept at applying the required measures. Looking at those long-term trends in salt usage will then help the dischargers to determine whether the BMPs need to be adjusted to result in further salt usage – or, potentially, whether further reductions in salt usage are not expected. Over time, it is also possible that changes in technology will occur, which would allow the dischargers to evaluate and apply other options to reduce chloride levels in the waters.
4. The TLWQS process, as laid out in the Board's rules and USEPA's variance regulations, clearly contemplate that throughout the term of the TLWQS/variance, the dischargers will be implementing the required BMPs, and that those BMPs (and the relevant reporting requirements) amount to their compliance obligations. In this situation for chlorides, it is clear that attaining the chlorides standards will not happen for many years, if at all. But we will be making progress toward that goal throughout the TLWQS/variance period, including (and especially) during the time period after the

¹ These studies are as follows: Kilgour, Gharabaghi, Perera, *Ecological benefit of the road salt code of practice* (2014) (Appendix 23); Transportation Association of Canada, *Syntheses of Best Practices – Road Salt Management, Chapter 11 –Successes in Road Salt Management: Case Studies* (2013) (Appendix 24); DuPage River Salt Creek Workgroup/CDM, *Chloride Usage Education and Reduction Program Study: Final Report* (2007) (Appendix 25); New Hampshire Department of Environmental Services, *Chloride Reduction Implementation Plan for Dinsmore Brook Watershed, Windham, NH* (2011) (Appendix 26); Local Research Board, Minnesota Department of Transportation, *Transportation Research Synthesis: Chloride Free Snow and Ice Control Material*, TRS 1411 (2014) (Appendix 27); Stone, Emelko, Marsalek, Price, Rudolph, Saini, Tighe, *Assessing the Efficacy of Current Road Salt Management Programs* (July 26, 2010), for University of Waterloo and National Water Research Institute (Appendix 28).

² Meals, Dressing, Davenport, *Lag Time in Water Quality Response to Best Management Practices: A Review*, J. Environ. Qual. 39:85-96 (2010) (Appendix 29).

BMPs have been put in place. It is critical that the dischargers know that during this time period, if they are implementing their required BMPs, and filing all appropriate reports, they are in compliance. It would make no sense to say that once they have put the BMPs in place, they would lose coverage under the TLWQS/variance. At that point, we know, the waters will not yet be attaining the water quality standard – which is the reason why a watershed TLWQS is needed in the first place. Coverage needs to continue throughout the 15 years, to give full effect to the TLWQS/variance process.

Second, as to the requirements for parties who want to join the TLWQS after it is approved, MWRD believes that clarification is needed as to item 5, which is on page 26 of the Recommendation. Item 5 states that a “late joining” party must state that it “is committed to implementing any required BMP not currently being implemented within 12 months.” MWRD supports the concept that late joiners should be required to make expeditious progress in implementing the BMPs. However, in most situations, it will simply not be possible to complete all of the BMPs in that short time span. The schedule for implementing BMPs for current petitioners recognizes, appropriately, that it will take a number of years to put all of the required measures in place. While late joiners should be required to move faster, if feasible, so they can “catch up” with the other parties, a hard deadline of 12 months is simply not feasible. Instead, the late joiners should be required to begin implementing the BMPs immediately, and should be required to make “substantial progress” within 12 months. If they have not completed all of the BMPs within those 12 months, their annual reports should explain the reasons, and should set forth a schedule for completion of the BMPs. Those conditions would be reasonable ones for the late joiners to meet.

Third, as to the requirements for new sources of chloride, which are on page 27 of the Recommendation, MWRD believes that clarification is also needed. The Recommendation states that in order to obtain coverage under the TLWQS for a new source of chloride, the discharger “must offset at least their additional loading.” MWRD understands the concept behind this recommendation – to ensure that there is no net increase in loadings of chloride. However, the requirement needs to be clarified in several respects, so dischargers can understand how to comply. For one thing, the term “additional loading” is unclear. The most practical way to implement this provision is to employ estimates based on annual salt usage. So, for example, if a discharger were introducing a new source that would result in 100 pounds of additional salt usage over the course of a year, then it would have to identify and implement measures (or have another party implement those measures) that would result in at least 100 less pounds of salt usage from other sources. In addition, the “offset” requirement should not be applied in cases of truly insignificant, or *de minimis*, sources. If, for example, the new source would increase salt usage by 5 pounds per year, it would not be justified to require the discharger to somehow find an offset of those 5 pounds or not have coverage under the TLWQS. MWRD cannot at this time define a specific *de minimis* level – instead, this term should be defined on a case-by-case basis. A discharger with a new source could submit information to the IEPA, for the Agency to make a *de minimis* determination, after which the discharger would know whether it needs to obtain an offset or not. This process would allow the dischargers, and IEPA, to focus their attention on truly significant sources, rather than minor salt usage situations.

MWRD appreciates the opportunity to submit this response to the IEPA Recommendation.

Respectfully submitted,

Metropolitan Water Reclamation District of
Greater Chicago

/s/ Fredric P. Andes

One of its Attorneys

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