

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,	)	PCB 16-14 (Homewood)
EXXONMOBIL OIL CORPORATION,	)	PCB 16-15 (Orland Park)
VILLAGE OF WILMETTE, WILMETTE	)	PCB 16-16 (Midlothian)
ILLINOIS, CITY OF COUNTRY CLUB	)	PCB 16-17 (Tinley Park)
HILLS, COUNTRY CLUB HILLS	)	PCB 16-18 (ExxonMobil)
ILLINOIS, NORAMCO-CHICAGO, INC.,	)	PCB 16-20 (Wilmette)
FLINT HILLS RESOURCES JOLIET LLC,	)	PCB 16-21 (Country Club Hills)
CITY OF EVANSTON, EVANSTON	)	PCB 16-22 (Noramco-Chicago)
ILLINOIS, VILLAGE OF SKOKIE,	)	PCB 16-23 (Flint Hills Resources)
SKOKIE ILLINOIS, ILLINOIS	)	PCB 16-25 (Evanston)
DEPARTMENT OF TRANSPORTATION,	)	PCB 16-26 (Skokie)
METROPOLITAN WATER	)	PCB 16-27 (IDOT)
RECLAMATION DISTRICT OF	)	PCB 16-29 (MWRDGC)
GREATER CHICAGO, VILLAGE OF	)	PCB 16-30 (Richton Park)
RICHTON PARK, RICHTON PARK	)	PCB 16-31 (Lincolnwood)
ILLINOIS, VILLAGE OF	)	PCB 16-33 (Oak Forest)
LINCOLNWOOD, LINCOLNWOOD	)	PCB 19-7 (Village of Lynwood)
ILLINOIS, CITY OF OAK FOREST, OAK	)	PCB 19-8 (Citgo Holdings)
FOREST ILLINOIS, VILLAGE OF	)	PCB 19-9 (New Lenox)
LYNWOOD, LYNWOOD ILLINOIS,	)	PCB 19-10 (Lockport)
CITGO HOLDINGS, INC., VILLAGE OF	)	PCB 19-11 (Caterpillar)
NEW LENOX, NEW LENOX ILLINOIS,	)	PCB 19-12 (Crest Hill)
CITY OF LOCKPORT, LOCKPORT	)	PCB 19-13 (Joliet)
ILLINOIS, CATERPILLAR, INC., CITY	)	PCB 19-14 (Morton Salt)
OF CREST HILL, CREST HILL ILLINOIS,	)	PCB 19-15 (Palos Heights)
CITY OF JOLIET, JOLIET ILLINOIS,	)	PCB 19-16 (Romeoville)
MORTON SALT, INC., CITY OF PALOS	)	PCB 19-17 (IMTT Illinois)
HEIGHTS, PALOS HEIGHTS ILLINOIS,	)	PCB 19-18 (Stepan)
VILLAGE OF ROMEOVILLE,	)	PCB 19-19 (Park Forest)
ROMEOVILLE ILLINOIS, IMTT	)	PCB 19-20 (Ozinga Ready Mix)
ILLINOIS LLC, STEPAN CO., VILLAGE	)	PCB 19-21 (Ozinga Materials)
OF PARK FOREST, PARK FOREST	)	PCB 19-22 (Midwest Marine)
ILLINOIS, OZINGA READY MIX	)	PCB 19-23 (Mokena)
CONCRETE, INC., OZINGA	)	PCB 19-24 (Oak Lawn)
MATERIALS, INC., MIDWEST MARINE	)	PCB 19-25 (Dolton)
TERMINALS LLC, VILLAGE OF	)	PCB 19-26 (Glenwood)
MOKENA, MOKENA ILLINOIS,	)	PCB 19-27 (Morton Grove)
VILLAGE OF OAK LAWN, OAK LAWN	)	PCB 19-28 (Lansing)

ILLINOIS, VILLAGE OF DOLTON,	)	PCB 19-29 (Frankfort)
DOLTON ILLINOIS, VILLAGE OF	)	PCB 19-30 (Winnetka)
GLENWOOD, GLENWOOD ILLINOIS,	)	PCB 19-31 (La Grange)
VILLAGE OF MORTON GROVE,	)	PCB 19-33 (Channahon)
MORTON GROVE ILLINOIS, VILLAGE	)	PCB 19-34 (CCDTH)
OF LANSING, LANSING ILLINOIS,	)	PCB 19-35 (Niles)
VILLAGE OF FRANKFORT,	)	PCB 19-36 (Skyway)
FRANKFORT ILLINOIS, VILLAGE OF	)	PCB 19-37 (Elwood)
WINNETKA, WINNETKA ILLINOIS,	)	PCB 19-38 (Chicago)
VILLAGE OF LA GRANGE, LA GRANGE	)	PCB 19-40 (Crestwood)
ILLINOIS, VILLAGE OF CHANNAHON,	)	PCB 19-48 (Riverside)
CHANNAHON ILLINOIS, COOK	)	(Time-Limited Water Quality
COUNTY DEPARTMENT OF	)	Standard)
TRANSPORTATION AND HIGHWAYS,	)	(Consolidated)
VILLAGE OF NILES, NILES ILLINOIS,	)	
SKYWAY CONCESSION COMPANY	)	
LLC, VILLAGE OF ELWOOD, ELWOOD	)	
ILLINOIS, CITY OF CHICAGO,	)	
CHICAGO ILLINOIS, VILLAGE OF	)	
CRESTWOOD, CRESTWOOD ILLINOIS	)	
and VILLAGE OF RIVERSIDE,	)	
RIVERSIDE ILLINOIS,	)	
	)	
Petitioners,	)	
	)	
v.	)	
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	
	)	

PETITIONER IMTT’S RESPONSE TO IEPA RECOMMENDATION

IMTT Illinois, LLC (“IMTT”) by and through its attorneys, K&L Gates, LLP, submits this response to IEPA’s Recommendation filed with the Board on April 5, 2019. Although,

IMTT has been a participant in the ad hoc group led by the MWRD, IMTT has some additional concerns which it would like to see addressed.

IMTT's primary concern is that IEPA has adopted and expanded on the ad hoc group's recommendation that the Board include as a mandatory BMP and potentially an NPDES permit requirement that individual petitioners join and participate in a "chlorides workgroup." The workgroup should meet "at least semi-annually" and must implement measures as outlined by the Board. The workgroup should issue an annual report that summarizes the individual report of each of the members.

This proposal clearly has a number of problems. First, the proposal does not identify a specific purpose for the workgroup. The Agency suggests the Board identify tasks but provides very little guidance as to what the workgroup is intended to accomplish. The main tasks the Agency identifies are education and outreach which are tasks which the General Assembly assigns to the Agency. Without a more defined role, it is hard to see whether workgroups are really necessary for accomplishing the goals of the variance.

More significantly, there is no demonstration that either the IEPA or the Board has the authority to require membership in a workgroup as a component of a permit or variance condition. It is not specifically authorized by statute and forces a petitioner to accept a compliance obligation over which it has no or limited control, i.e. the actions of a group. To the extent that the variance requires group membership and imposes obligations on the petitioner which can only be accomplished by the group, that petitioner's ability to comply is based solely on what the group does or does not do. The suggested BMP includes the Orwellian direction that "All covered entities are individually responsible for ensuring the workgroup's success" introducing collective liability for what should be individual compliance.

These concerns are compounded by the lack of any rules regarding group governance. Groups vary significantly in their organizational and financial structure, in how they make decisions, set fees and vote. Existing watershed groups tend to be low key and collegial but those groups serve as sources of information and not as permanent organizations that will need to set priorities, take actions and collect and maintain fees to accomplish their goals. If forced to join a particular workgroup as a condition of this variance or their NPDES permit, a petitioner will have no recourse should the workgroup not represent its interests, is governed improperly or sets exorbitant or unfair fees. It is not clear that the Board has the authority or the interest to adopt group governance regulations, but their lack points out the perils of mandating group membership.

There may well be a reason for some type of group action in this setting but IMTT respectfully suggests that the Board cannot move forward without more information in the record. The purpose, tasks and governance of workgroups needs to be clearly stated and the rights of smaller and non-members protected.

IMTT also has the following specific comments on individual proposed BMPs for POTWs and Industrial Sources.

- 1) Proposed BMP Paragraph 2: The requirement that all salt be stored on an impermeable pad constructed to limit contact with stormwater should include the option to store salt indoors or in a container that ensures stormwater does not come into contact with the salt.
- 2) Proposed BMP Paragraph 4: This BMP requires good housekeeping practices including the cleanup of salt loading equipment after each snow/ice event and the “proper disposal” of resulting wash water. Yet it may not be feasible to cleanup after each event depending on the frequency and intensity of the events and it is also not clear what would be involved in “proper disposal.” Many operations do not have facilities to actually capture rinse water.
- 3) Proposed BMP Paragraph 7: This BMP appears to require equipment to be purchased to measure the pavement temperature, but facilities may contract snow and ice management to independent operators. This BMP should allow petitioners to use data provided by their contractors.

- 4) Proposed BMP Paragraph 9: This BMP requires that storm conditions be tracked during each call-out and recorded. Yet it does not identify the specific conditions to be recorded, such as the type of precipitation, the volume, or the duration.

As always, IMTT appreciates the opportunity to submit these comments.

Dated: April 19, 2019

Respectfully submitted,

I IMTT Illinois, LLC

By: /s/ David L. Rieser  
One of Its Attorneys

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**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 )	
ILLINOIS, VILLAGE OF SKOKIE, SKOKIE )	PCB 16-14 (Homewood)
ILLINOIS, ILLINOIS DEPARTMENT OF )	PCB 16-15 (Orland Park)
TRANSPORTATION, METROPOLITAN )	PCB 16-16 (Midlothian)
WATER RECLAMATION DISTRICT OF )	PCB 16-17 (Tinley Park)
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ILLINOIS, VILLAGE OF LINCOLNWOOD, )	PCB 16-21 (Country Club Hills)
LINCOLNWOOD ILLINOIS, CITY OF OAK )	PCB 16-22 (Noramco-Chicago)
FOREST, OAK FOREST ILLINOIS, VILLAGE )	PCB 16-23 (Flint Hills Resources)
OF LYNWOOD, LYNWOOD ILLINOIS, )	PCB 16-25 (Evanston)
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NEW LENOX, NEW LENOX ILLINOIS, CITY )	PCB 16-27 (IDOT)
OF LOCKPORT, LOCKPORT ILLINOIS, )	PCB 16-29 (MWRDGC)
CATERPILLAR, INC., CITY OF CREST )	PCB 16-30 (Richton Park)
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)
HEIGHTS ILLINOIS, VILLAGE OF )	PCB 19-8 (Citgo Holdings)
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INC., MIDWEST MARINE TERMINALS LLC, )	PCB 19-14 (Morton Salt)
VILLAGE OF MOKENA, MOKENA )	PCB 19-15 (Palos Heights)
ILLINOIS, VILLAGE OF OAK LAWN, OAK )	PCB 19-16 (Romeoville)
LAWN ILLINOIS, VILLAGE OF DOTON, )	PCB 19-17 (IMTT Illinois)
DOTON ILLINOIS, VILLAGE OF )	PCB 19-18 (Stepan)
GLENWOOD, GLENWOOD ILLINOIS, )	PCB 19-19 (Park Forest)
VILLAGE OF MORTON GROVE, MORTON )	PCB 19-20 (Ozinga Ready Mix)
GROVE ILLINOIS, VILLAGE OF LANSING, )	PCB 19-21 (Ozinga Materials)
LANSING ILLINOIS, VILLAGE OF )	PCB 19-22 (Midwest Marine)

FRANKFORT, FRANKFORT ILLINOIS,	)	PCB 19-23 (Mokena)
VILLAGE OF WINNETKA, WINNETKA	)	PCB 19-24 (Oak Lawn)
ILLINOIS, VILLAGE OF LA GRANGE, LA	)	PCB 19-25 (Dolton)
GRANGE ILLINOIS, VILLAGE OF	)	PCB 19-26 (Glenwood)
CHANNAHON, CHANNAHON ILLINOIS,	)	PCB 19-27 (Morton Grove)
COOK COUNTY DEPARTMENT OF	)	PCB 19-28 (Lansing)
TRANSPORTATION AND HIGHWAYS,	)	PCB 19-29 (Frankfort)
VILLAGE OF NILES, NILES ILLINOIS,	)	PCB 19-30 (Winnetka)
SKYWAY CONCESSION COMPANY LLC,	)	PCB 19-31 (La Grange)
VILLAGE OF ELWOOD, ELWOOD	)	PCB 19-33 (Channahon)
ILLINOIS, CITY OF CHICAGO, CHICAGO	)	PCB 19-34 (CCDTH)
ILLINOIS, VILLAGE OF CRESTWOOD,	)	PCB 19-35 (Niles)
CRESTWOOD ILLINOIS and VILLAGE OF	)	PCB 19-36 (Skyway)
RIVERSIDE, RIVERSIDE ILLINOIS	)	PCB 19-37 (Elwood)
	)	PCB 19-38 (Chicago)
Petitioners,	)	PCB 19-40 (Crestwood)
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v.	)	
	)	(Time-Limited Water Quality
ILLINOIS ENVIRONMENTAL PROTECTION	)	Standard)
AGENCY,	)	(Consolidated)
	)	
Respondent.	)	

**NOTICE OF FILING**

To: See Attached Service List

**PLEASE TAKE NOTICE** that on April 19, 2019 IMTT Illinois, LLC electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, its Response to the Recommendation of the Illinois Environmental Protection Agency copies of which are hereby served upon you.

Dated: April 19, 2019

**IMTT Illinois, LLC**

By: /s/ David L. Rieser  
One of Its Attorneys

David L. Rieser  
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**PROOF OF SERVICE**

The undersigned attorney certifies, under penalties of perjury pursuant to 735 ILCS 5/1-109, that he caused a copy of the foregoing **Response to the Recommendation of the Illinois Environmental Protection Agency** to be served by sending an email from my email account to the email addresses designated in the attached Service List by an e-mail transmission on or before 5:00 pm on April 19, 2019.

See Attached Service List

*/s/ David L. Rieser* \_\_\_\_\_

One of Its Attorneys



## Electronic Filing: Received, Clerk's Office 4/19/2019

Service List: Updated 4-19-2019

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Electronic Filing: Received, Clerk's Office 4/19/2019

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