

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

VILLAGE OF DOTON, DOTON	)	PCB 19-30 (Winnetka)
ILLINOIS, VILLAGE OF GLENWOOD,	)	PCB 19-31 (La Grange)
GLENWOOD ILLINOIS, VILLAGE OF	)	PCB 19-32 (Ingredion)
MORTON GROVE, MORTON GROVE	)	PCB 19-33 (Channahon)
ILLINOIS, VILLAGE OF LANSING,	)	PCB 19-34 (CCDTH)
LANSING ILLINOIS, VILLAGE OF	)	PCB 19-35 (Niles)
FRANKFORT, FRANKFORT ILLINOIS,	)	PCB 19-36 (Skyway)
VILLAGE OF WINNETKA, WINNETKA	)	PCB 19-37 (Elwood)
ILLINOIS, VILLAGE OF LA GRANGE,	)	PCB 19-38 (Chicago)
LA GRANGE ILLINOIS, INGREDION,	)	PCB 19-40 (Crestwood)
INC., VILLAGE OF CHANNAHON,	)	PCB 19-48 (Riverside)
CHANNAHON ILLINOIS, COOK)	
COUNTY DEPARTMENT OF	)	(Time-Limited Water Quality
TRANSPORTATION AND HIGHWAYS,	)	Standard)
VILLAGE OF NILES, NILES ILLINOIS,)	
SKYWAY CONCESSION COMPANY	)	(Consolidated)
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.)	

NOTICE OF FILING

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

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a **PUBLIC COMMENT OF THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP** a copy of which is herewith served upon you.

Respectfully submitted,

Dated: March 17, 2020

By: /s/ Melissa S. Brown
One of Its Attorneys

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CERTIFICATE OF SERVICE

I, the undersigned, on oath state the following:

That I have served the attached **PUBLIC COMMENT OF THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP** via electronic mail upon:

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That my email address is Melissa.Brown@heplerbroom.com

That the number of pages in the email transmission is 16 pages.

That the email transmission took place before 5:00 p.m. on the date of March 17, 2020.

/s/ Melissa S. Brown
Melissa S. Brown

Date: March 17, 2020

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ILLINOIS, VILLAGE OF CRESTWOOD,)	
CRESTWOOD ILLINOIS and VILLAGE)	
OF RIVERSIDE, RIVERSIDE ILLINOIS,)	
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v.)	
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ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

**PUBLIC COMMENT OF THE
ILLINOIS ENVIRONMENTAL REGULATORY GROUP**

NOW COMES the Illinois Environmental Regulatory Group (“IERG”), by and through its attorneys, HEPLERBROOM, LLC, and pursuant to the Illinois Pollution Control Board’s (“Board”) Hearing Officer Order of February 27, 2020, submits the following Public Comment for the Board’s consideration in the above-referenced consolidated proceeding.

IERG is an Illinois non-profit corporation affiliated with the Illinois Chamber of Commerce and is comprised of forty-six (46) member companies that are regulated by

governmental agencies that promulgate, enforce, or administer environmental laws, rules, regulations, or other policies. Several IERG member companies are petitioners in this time-limited water quality standard (“TLWQS”) proceeding and will therefore be impacted by any decision made by the Board in this matter. Additionally, IERG was an active participant in the rulemaking proceeding in which the Board adopted the TLWQS regulations and, as such, has an interest in seeing how such regulations are implemented in the first watershed TLWQS proceeding. As a general matter, IERG supports petitioners’ request for a TLWQS, and encourages the Board to proceed expeditiously with granting the TLWQS.

IERG has, however, identified issues that it seeks clarification on. As the Board is aware, participation in a workgroup as a proposed condition in a regulatory relief proceeding is a novel concept. At the Board’s February 18, 2020 public hearing in this matter, IERG focused much of its questioning of the Illinois Environmental Protection Agency’s (“Illinois EPA”) witness on the origin and authority for the proposed workgroup requirements. Several of the petitioners in this proceeding have also questioned the Board’s authority for imposing a workgroup requirement as part of the TLWQS, as well as Illinois EPA’s authority for incorporating a workgroup requirement into individual NPDES permits.

Initially, petitioners proposed that the requirements for data gathering, submittal of annual reports, and reevaluation be a group effort. *See* July 24, 2018 Joint Submittal at 9.2, FN 41 and 10.2, FN 42. However, in its Recommendation, Illinois EPA expanded the scope of the proposed workgroup requirement. In addition to data collection and submittal of reports, Illinois EPA proposed that the workgroup: (i) convene semi-annually; (ii) conduct education, outreach, and other activities to local residents, applicators, elected officials, and businesses, including training of citizens or private companies that remove snow and apply salt; (iii) work with MS4

communities to inform them of general permit obligations; (iv) continue to educate the industries and CSO communities of their need to participate in the TLWQS if they are contributing to violations of the chloride water quality standard through presentations, communication with organizations, and permit renewals; and (v) identify the different nonpoint sources categories and prioritize educational efforts based on salt spreading practices and proximity to surface waters. *See* April 5, 2019 Illinois EPA Recommendation at 14-16.

When asked about the authority for such requirements at hearing, Illinois EPA was unable to point to any source of authority relating to the proposed workgroup requirements. *See* February 18, 2020 Hearing Transcript, at 141:15-17 (“We couldn’t find anything that prohibits it, and we couldn’t find anything that specifically mentions it.”) and 146:23-24 and 147:1 (“The Agency doesn’t believe that there is any prohibition in requiring participation in the workgroup.”). Indeed, IERG is not aware of any authority for the Board to impose on Illinois EPA to incorporate into permits the workgroup requirements proposed here. Instead, per Section 4(b) of the Illinois Environmental Protection Act, it is traditionally Illinois EPA’s role to collect and disseminate information and acquire technical data:

(b) The Agency shall have the duty to collect and disseminate such information, acquire such technical data, and conduct such experiments as may be required to carry out the purposes of this Act, including ascertainment of the quantity and nature of discharges from any contaminant source and data on those sources, and to operate and arrange for the operation of devices for the monitoring of environmental quality.

415 ILCS 5/4(b).

IERG recognizes that a workgroup can be useful for satisfying the unique aspects of a watershed TLWQS, which is one of collaboration, accountability and continuous improvement. As initially envisioned by petitioners, a workgroup can be useful in aiding in data collection and submittal of reports to Illinois EPA. However, the other tasks envisioned for the proposed

workgroup(s), including education and outreach functions, are seemingly ones that Illinois EPA could and should perform, but instead it has decided to delegate its statutory duties to petitioners. IERG has significant concerns regarding the delegation of regulatory responsibilities, and thus regulatory authority, to entities other than the State. This concern is bolstered by Illinois EPA's and USEPA's position that participation in a workgroup is a mandatory condition of this TLWQS, and that the workgroup would have authority over its participants with no apparent relief for a participant that does not agree with decisions of the workgroup (other than filing for an individual TLWQS).

While petitioners voluntarily proposed the creation of a workgroup for completion of specific tasks, Illinois EPA and the Board should not see this as an opportunity to shift responsibilities that are traditionally Illinois EPA's to the petitioners. Additionally, as noted by several petitioners, because the majority of petitioners have no authority over other sources of chlorides, IERG feels even more strongly that certain functions aimed at accomplishing the collective action goals here should be left to the State. IERG urges the Board to take these points into consideration, as well as to not be overly prescriptive with respect to the workgroup requirements. Instead, the Board should leave the details regarding participation in, self-organization, and requirements of the workgroup up to the workgroup itself.

Furthermore, IERG has some concerns over the proposed offset requirement for new sources of chlorides. It remains unclear based on the discussions at hearing how this offset requirement would be implemented. IERG reserves any comments on this issue until it sees more detail from Illinois EPA on implementation of offsets in this context.

Lastly, at hearing, IERG questioned Illinois EPA on how a revised chloride standard would affect this TLWQS if adopted. *See* February 18, 2020 Hearing Transcript at 168:8-24.

Illinois EPA stated that it would follow-up on this question in post-hearing comments. *See id.* at 169:1-6. IERG looks forward to Illinois EPA's response to this question in its initial brief submitted to the Board.

IERG appreciates the opportunity to submit public comments and we thank you for your consideration of these comments.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: March 17, 2020

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