

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)
ILLINOIS, VILLAGE OF ROMEOVILLE,	)	PCB 19-21 (Ozinga Materials)
ROMEOVILLE ILLINOIS, IMTT ILLINOIS)	PCB 19-22 (Midwest Marine)
LLC, STEPAN CO., VILLAGE OF PARK)	PCB 19-23 (Mokena)
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OZINGA READY MIX CONCRETE, INC.,)	PCB 19-25 (Doton)
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 an **PETITIONER, INEOS JOLIET, LLC'S POST-HEARING BRIEF** a copy of which is herewith served upon you.

Respectfully submitted,

Dated: April 21, 2020

By: /s/ Michael P. Murphy
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 **PETITIONER, INEOS JOLIET, LLC'S POST-HEARING BRIEF** via electronic mail upon:

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That my email address is Michael.Murphy@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 April 21, 2020.

/s/ Michael P. Murphy

One of Its Attorneys

Date: April 21, 2020

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COUNTY DEPARTMENT OF)	(Time-Limited Water Quality
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ILLINOIS, CITY OF CHICAGO, CHICAGO)	
ILLINOIS, VILLAGE OF CRESTWOOD,)	
CRESTWOOD ILLINOIS and VILLAGE)	
OF RIVERSIDE, RIVERSIDE ILLINOIS,)	
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Petitioners,)	
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v.)	
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ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

**PETITIONER, INEOS JOLIET, LLC'S,
POST-HEARING BRIEF**

Petitioner, INEOS Joliet, LLC (“INEOS”), by and through its attorneys, HEPLERBROOM, LLC, pursuant to the Hearing Report dated February 27, 2020, and the Hearing Officer Order dated March 26, 2020, submits the following Post-Hearing Brief:

Procedural History

Flint Hills Resources Joliet, LLC (“Flint Hills”) filed its initial variance petition in docket PCB 2016-23 under Section 35(a) of the Illinois Environmental Protection Act (“Act”) (415

ILCS 5/35(a)) on July 21, 2015. In this petition, it sought a three-year variance from the July 1, 2018, deadline for complying with the Chloride Standard. Numerous other petitioners sought variances from the Chloride Standard, and the Illinois Pollution Control Board (“Board”) consolidated these matters (PCB 2016-14 cons.) on December 17, 2015.

On February 24, 2017, P.A. 99-937 was signed into law. This legislation amended the Act to include Section 38.5, which gives the Board the authority to adopt time-limited water quality standards (“TLWQS”). See 415 ILCS 5/38.5(a). Flint Hills’ variance petition was automatically converted to a petition for a TLWQS by operation of Section 38.5 of the Act (415 ILCS 5/38.5) and Section 104.520(a)(2) of the Board’s rules (35 Ill. Adm. Code 104.520(a)(2)). The Illinois Environmental Protection Agency (“IEPA” or “Agency”) filed its response to Flint Hills’ TLWQS petition on March 16, 2017. Section 38.5(f) of the Act requires the Board, within 30 days after receiving the Agency’s response, to enter an order establishing the discharger or class of dischargers that may be covered by the requested TLWQS along with procedural deadlines. 415 ILCS 5/38.5(f). The Board issued this order on April 12, 2017. On June 8, 2017, and in response to IEPA’s motion for clarification of the class of discharger in the watershed, the Board issued an interim opinion adopting IEPA’s proposed clarifying language, and found that the pending petitions did not substantially comply with federal regulations at 40 C.F.R. § 131.14.

On July 24, 2018, the Metropolitan Water Reclamation District of Greater Chicago (“MWRD” or “District”) filed its Joint Submittal in Support of Petition for Chloride Time-Limited Water Quality Standard for the Defined Chicago Area Water System / Des Plaines River (“CAWS / LDPR”) Watershed (“Joint Submittal”). Flint Hills filed its Individual Submittal supplementing the Joint Submittal on July 26, 2018, pursuant to Section 104.520(b)(1)(B) of the Board’s rules. 35 Ill. Adm. Code 104.520(b)(1)(B).

The Joint Submittal identified the TLWQS sought as a deviation from the Chloride Standard for the CAWS / LDPR watershed. The Joint Submittal included Best Management Practices (“BMPs”) for the watershed, a map and description of that watershed, data describing the anticipated failure to meet existing water quality standards for Chloride in the watershed, and other materials demonstrating why attainment was not feasible, pursuant to Section 104.530(a) and (b)(1) of the Board’s rules. 35 Ill. Adm. Code 104.530(a), 104.530(b)(1). Flint Hills’ Individual Submittal identified the facility discharging into the watershed, contact information and permits for that facility, and other information mandated by Section 104.530 supplementing the Joint Submittal. On November 30, 2018, a sale of the Flint Hills facility operating on the watershed was closed, and INEOS Enterprise Holdings Newco Limited became the new owner of this facility, now doing business as “INEOS Joliet, LLC” (“INEOS Joliet”), which is now the Petitioner in this matter. On December 20, 2018, the Board issued an order assessing the petitions and finding they were in substantial compliance with Section 104.530.

IEPA filed its recommendation in response to the Joint Submittal and individual petitions on April 5, 2019. Various petitioners filed responses to IEPA’s recommendations, and the Board issued its questions on July 24, 2019. IEPA, INEOS Joliet, the District, and other petitioners filed responses answering the Board’s questions on September 23, 2019. On December 17, 2019, the hearing officer in the consolidated dockets issued an amended hearing officer order, setting the matter for a hearing from February 18, 2020 through February 20, 2020. Several petitioners and intervening parties submitted pre-filed testimony with the Board on January 17, 2020, followed by questions addressed to the pre-filed testimony on February 13, 2020.

The single-day public hearing on the petitions occurred on February 18, 2020.

Relief requested

INEOS Joliet and the other Petitioners have completed all necessary procedural steps and have submitted sufficient information in these consolidated proceedings to meet their burden to show that the requested TLWQS should be approved by the Board. INEOS Joliet respectfully requests the Board to grant the relief requested. INEOS Joliet submits the following comments prior to the Board's ruling in this matter and requests that its final decision reflect these comments.

Post-Hearing Comments

1. INEOS incorporates and adopts the Post Hearing Brief filed by the Metropolitan Water Reclamation District of Greater Chicago.

2. INEOS Joliet's answers to the Board's questions (filed on September 23, 2019) noted that it was omitted from Table 2. In the Revised Potential Draft Order Language in the Board's pre-filed questions (Attachment 1 to the Hearing Officer Order of February 13, 2020), Table 2 was revised to include INEOS Joliet, with the receiving water identified as DRP: KR-WC, which is correct according to the Table Key to Table 2 (pp. 25-26) (Des Plaines River: Kankakee River to Will County Line). In the Revised Potential Draft Order Language in the Board's pre-filed questions (Attachment 1 to the Hearing Officer Order of February 13, 2020), Table 1 was revised to add additional segments of the Lower Des Plaines River (pp. 15-16), but Table 2 (pp. 18-26) and the Table Key for Table 2 (pp. 25-26) were not updated to reflect the changes to Table 1. Based on the current Table 2, the Receiving Water for INEOS Joliet is correct. If the changes to Table 1 are incorporated into Table 2, however, then the Receiving Water for INEOS Joliet in Table 2 would be "DPR: I-55 Bridge-BRLD."

3. With respect to Table 4, item 2, row 2, “evaluation of water softening chemical substitution options” should be revised to read “evaluation of water softening alternatives and chemical usage substitutions.”

4. In the pre-filed testimony of Laura Barghusen on behalf of Openlands, page 8, a map purportedly indicating “known locations of select aquatic life known to be sensitive to chlorides” was filed. The map also purportedly showed chloride monitoring locations (see pages 8 and 13). The Board should be aware that many locations identified on the map filed with Ms. Barghusen’s testimony are not within the scope of the watershed in question for this TLWQS (e.g., Lake County locations are irrelevant). *Compare* Pre-Filed Testimony of Laura Barghusen, Openlands (January 27, 2020), p. 8 *with* Figure 1 attached to the Hearing Officer Order of February 13, 2020 (at page 35 of Attachment 1) (map of Chloride TLWQS Watersheds) *and* Illinois EPA’s Response to the Variance Petition (filed March 16, 2017), Attachment 1 (map of proposed chloride watershed).

Respectfully submitted,

INEOS JOLIET, LLC, Petitioner

DATE: April 21, 2020

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One of its Attorneys

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