

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: Don Brown	Carol Webb
Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500	1021 North Grand Avenue East
Chicago, Illinois 60601	Post Office Box 19274
(VIA ELECTRONIC MAIL)	Springfield, Illinois 62794-9274
	(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 the **STATUS REPORT**, a copy of which is herewith served upon you.

Respectfully submitted,

SANITARY DISTRICT OF DECATUR

Date: March 16, 2021

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

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CERTIFICATE OF SERVICE

I, Melissa S. Brown, the undersigned, on oath state the following:

That I have served the attached **STATUS REPORT**, via electronic mail upon:

Don Brown
Clerk of the Board
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
Don.Brown@illinois.gov

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

That the number of pages in the email transmission is 5.

That the email transmission took place before 5:00 p.m. on the date of March 16, 2021.

/s/ Melissa S. Brown

Melissa S. Brown

Date: March 16, 2021

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STATUS REPORT

NOW COMES Petitioner, SANITARY DISTRICT OF DECATUR (“District” or “Petitioner”), by and through its attorneys, HEPLERBROOM, LLC, and pursuant to the Hearing Officer Order dated February 16, 2021, hereby provides an update to the Illinois Pollution Control Board (“Board”) as follows:

1. On September 29, 2017, the District filed in this proceeding a Motion for Extension of Time to file a substantially compliant amended time-limited water quality standard (“TLWQS”) petition with the Board. *See* Motion for Extension of Time, PCB 14-111 (Ill.Pol.Control.Bd. Sep. 29, 2017).

2. On October 5, 2017, the Board granted the District’s Motion for Extension of Time, extending the deadline to file a substantially compliant amended TLWQS petition to December 31, 2018. *See* Board Order, PCB 14-111, at 1-2 (Ill.Pol.Control.Bd. Oct. 5, 2017).

3. The Board adopted the District’s proposed site-specific rule (“SSR”) in the related site-specific rulemaking proceeding, PCB R 14-24, on November 15, 2018. *See* Board Order, PCB R 14-24, at 1-2 (Ill.Pol.Control.Bd. Nov. 15, 2018). The adopted SSR was filed with the Secretary of State on November 19, 2018 and was published in the *Illinois Register* on

November 30, 2018. *See* 42 Ill. Reg. 20,934, 20,947 (Nov. 30, 2018). As such, the District's SSR is effective as a matter of state law as of November 19, 2018 per 5 ILCS 100/5-40(d).

4. On December 5, 2018, the District filed with the Board a Motion to Stay the TLWQS Proceeding until USEPA's final decision on the adopted SSR, which the Board granted on December 20, 2018. Board Order, PCB 14-111 (Ill.Pol.Control.Bd. Dec. 20, 2018). In its Order, the Board directed the District to promptly notify it of USEPA's decision. *See id.*

5. On April 8, 2019, USEPA approved the District's site specific water quality standard. *See* Letter from Joan M. Tanaka, Acting Director, Water Division, USEPA Region 5, to Sanjay Sofat, Chief, Bureau of Water, Illinois EPA (Apr. 8, 2019) ("Approval Letter"). The Approval Letter noted that USEPA's consultation with the United States Fish and Wildlife Service ("FWS") had been initiated but has not yet concluded. *See* Petitioner's Status Report, PCB 14-111 (Ill.Pol.Control.Bd. Apr. 25, 2019).

6. On June 3, 2019, the FWS concluded its consultation.

7. Since 2019, the District has been in negotiations with Illinois EPA regarding renewing its National Pollutant Discharge Elimination System ("NPDES") permit, NPDES Permit No. IL0028321, which will contain the updated nickel limit based on the SSR.

8. The draft NPDES permit went out to public notice from October 9, 2020 to November 9, 2020.

9. As of the date of this status report, the District believes that the NPDES permit with the updated nickel limit will be issued in the next couple of weeks.

10. As stated in prior filings in this matter, the District maintained this TLWQS proceeding as an alternative form of relief if the Board did not adopt the SSR or if USEPA did not approve the SSR. *See* Petitioner's Motion for Extension of Time, PCB 14-111

(Ill.Pol.Control.Bd. Sep. 29, 2017); Petitioner's Motion for Stay of Proceeding, PCB 14-111
(Ill.Pol.Control.Bd. Dec. 5, 2018).

11. The District requests that this proceeding remain open as an alternative form of relief until the NPDES permit, with the revised nickel limit as set forth in the approved SSR, is issued by Illinois EPA and the 35-day appeal period has passed.

12. Once the NPDES permit is issued and the 35-day appeal period expires with no appeal, the District will move to voluntarily dismiss this proceeding.

Respectfully submitted,

SANITARY DISTRICT OF DECATUR,
By One of Its Attorneys,

Dated: March 16, 2021

/s/ Melissa S. Brown

Melissa S. Brown

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