

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED SITE SPECIFIC)
RULE FOR SANITARY DISTRICT) R14-24
OF DECATUR FROM 35 ILL. ADM.) (Site Specific Rule – Water)
CODE SECTION 302.208(e).)

NOTICE OF FILING

TO: Mr. John T. Therriault Daniel Robertson, Esq.
Clerk of the Board Hearing Officer
Illinois Pollution Control Board Illinois Pollution Control Board
100 W. Randolph Street 100 W. Randolph Street
Suite 11-500 Suite 11-500
Chicago, Illinois 60601 Chicago, Illinois 60601
(VIA ELECTRONIC MAIL) (VIA ELECTRONIC MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the **STATUS REPORT and NOTICE OF FIRM ADDRESS CHANGE**, a copy of which is herewith served upon you.

Respectfully submitted,

SANITARY DISTRICT OF DECATUR,

Dated: December 29, 2016

By: /s/Katherine D. Hodge
Katherine D. Hodge

Katherine D. Hodge
Joshua J. Houser
HeplerBroom, LLC
4340 Acer Grove Drive
Springfield, Illinois 62711
Katherine.Hodge@heplerbroom.com
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(217) 528-3674

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STATUS REPORT

NOW COMES the SANITARY DISTRICT OF DECATUR (“District”), by and through its attorneys, HEPLERBROOM, LLC, and provides this status report to the Hearing Officer and the Illinois Pollution Control Board (“Board”) regarding recent activities in this matter. The District provides as follows:

On June 30, 2014, the District filed a petition for a site-specific rulemaking pursuant to Sections 27 and 28 of the Environmental Protection Act (“Act”), 415 ILCS 5/27, 28, and Sections 101.202 and 102.210 of the Board’s Regulations, 35 Ill. Admin. Code §§ 101.202, 102.210. The District’s petition seeks to establish an alternative chronic water quality standard for nickel from the point of its discharge into the Sangamon River at its Main Plant to the point of the confluence of the Sangamon River with the South Fork of the Sangamon River near Riverton.

On July 24, 2014, the Board accepted the petition for hearing and directed the assigned hearing officer to schedule and to proceed to hearing under the rulemaking provisions of the Act and the Board’s procedural rules. On July 29, 2014, the hearing officer accepted the District’s request to postpone the scheduling of a hearing date. The Hearing Officer ordered the District to file a status report by August 29, 2014, stating its readiness for hearing or requesting additional time. The District filed its status report on August 29, 2014, requesting an additional sixty days before scheduling a hearing in this rulemaking. The Hearing Officer granted the request and

directed the District to file a new status report by October 28, 2014. The District filed its status report on October 28, 2014, requesting an additional sixty days before scheduling a hearing in this rulemaking. On October 30, 2014, the Hearing Officer granted the request and directed the District to file a new status report by December 29, 2014. The District filed its status report on December 22, 2014, requesting an additional sixty days before scheduling a hearing in this rulemaking. On December 30, 2014, the Hearing Officer granted the request and directed the District to file a new status report by February 27, 2015.

The District filed its status report on February 27, 2015, requesting an additional sixty days before scheduling a hearing in this rulemaking. On March 2, 2015, the Hearing Officer granted the request and directed the District to file a new status report by May 1, 2015. The District filed its status report on May 1, 2015, requesting an additional ninety days before scheduling a hearing in this rulemaking. On May 7, 2015, the Hearing Officer granted the request and directed the District to file a new status report by August 5, 2015. The District filed its status report on August 3, 2015, requesting an additional ninety days before scheduling a hearing in this rulemaking. On August 5, 2015, the Hearing Officer granted the request and directed the District to file a new status report by November 3, 2015. The District filed its status report on November 3, 2015, requesting an additional ninety days before scheduling a hearing in this rulemaking. On November 9, 2015, the Hearing Officer granted the request and directed the District to file a new status report on February 1, 2016.

The District filed its status report on February 1, 2016, requesting an additional ninety days before scheduling a hearing in this rulemaking. On February 3, 2016, the Hearing Officer granted the request and directed the District to file a new status report on May 2, 2016. The District filed its status report on May 2, 2016, requesting an additional ninety days before

scheduling a hearing in this rulemaking. On May 4, 2016, the Hearing Officer granted the request and directed the District to file a new status report on August 1, 2016. The District filed its status report on August 1, 2016, requesting an additional ninety days before scheduling a hearing in this rulemaking. On August 11, 2016, the Board granted the request, but in order to align this rulemaking with the District's related variance petition (PCB 14-111), the Board extended the District's original 90-day request and instead directed the District to file a new status report by December 31, 2016.

The District now respectfully requests an additional six months, i.e., until June 30, 2017, before scheduling a hearing date in this rulemaking proceeding. The District is continuing to engage in discussions with the United States Environmental Protection Agency ("USEPA") and the Illinois Environmental Protection Agency ("Illinois EPA") concerning technical studies at issue in this proceeding, as follows:

The District's consultants completed additional evaluation of related literature and toxicity studies, as requested by USEPA, and submitted to both USEPA and Illinois EPA a final draft report entitled, "A review of water quality factors that affect nickel bioavailability to aquatic organisms: Refinement of the Biotic Ligand Model for Nickel in acute and chronic exposures." USEPA and the District's consultants have since been reviewing the final draft report together in detail.

In addition, the District has continued its discussions with USEPA and Illinois EPA regarding approval of the District's proposed testing protocol. After conceptual agreement was reached on the toxicity testing protocol, the testing was completed by the Oregon State University ("OSU") testing laboratory in December 2015. OSU prepared a report entitled "Progress Report – Nickel WER Project," which was forwarded to both USEPA and Illinois

EPA on April 12, 2016. During a call with Illinois EPA and USEPA on May 19, 2016, the District discussed OSU's testing and Progress Report, and USEPA provided its comments on the same. Subsequently, USEPA requested that the District perform an additional round of toxicity testing in order to address USEPA's comments.

OSU and the District's consultants then began working on an additional testing protocol to submit to USEPA for approval. On October 5, 2016, OSU submitted a proposed protocol to USEPA for review and approval, and the District provided Illinois EPA with the proposed protocol the following day on October 6, 2016. On November 1, 2016, USEPA provided OSU with comments on the proposed protocol. On November 17, 2016, OSU provided the District with a revised testing protocol that addressed USEPA's comments. On December 15, 2016, the District instructed OSU to begin the additional round of USEPA-required toxicity testing using the approved testing protocol. OSU will be completing the additional testing as soon as possible and working with the District to report the testing results to USEPA and Illinois EPA for review and comment.

The District will commit to the filing of additional status report(s), as requested by the Hearing Officer.

Respectfully submitted,

SANITARY DISTRICT OF DECATUR,

Dated: December 29, 2016

By: /s/ Katherine D. Hodge
Katherine D. Hodge

Katherine D. Hodge
Joshua J. Houser
HeplerBroom, LLC
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NOTICE OF FIRM ADDRESS CHANGE

NOW COME Katherine D. Hodge and Joshua J. Houser, of HEPLERBROOM, LLC, and hereby notify the Illinois Pollution Control Board that our office mailing address and phone number have changed, effective as of December 13, 2016, as follows: 4340 Acer Grove Drive, Springfield, Illinois 62711, (217) 528-3674.

Respectfully submitted,

HEPLERBROOM, LLC,

Dated: December 29, 2016

By: /s/ Katherine D. Hodge
One of Its Attorneys

Katherine D. Hodge
Joshua J. Houser
HeplerBroom, LLC
4340 Acer Grove Drive
Springfield, Illinois 62711
Katherine.Hodge@heplerbroom.com
Joshua.Houser@heplerbroom.com
(217) 528-3674

CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, hereby certify that I have served the attached STATUS REPORT and NOTICE OF FIRM ADDRESS CHANGE upon:

Mr. John T. Therriault
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Daniel Robertson, Esq.
Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

via electronic mail on December 29, 2016; and upon:

Sara Terranova, Esq.
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois, on December 29, 2016.

/s/ Katherine D. Hodge
Katherine D. Hodge