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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JAN - 5 2004

STATE OF ILLINOIS  
POLLUTION CONTROL BOARD

DES PLAINES RIVER WATERSHED ALLIANCE )  
LIVABLE COMMUNITIES ALLIANCE )  
PRAIRIE RIVERS NETWORK, and SIEERA CLUB, )

Petitioner, )

v. )

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY and VILLAGE OF NEW LENOX, )

Respondent. )

PCB 04-88  
(NPDES Permit Appeal)

NOTICE OF FILING


Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph Street  
Chicago, IL 60601

Albert F. Ettinger  
Senior Staff Attorney  
Environmental Law & Policy Center  
35 East Wacker Drive, Suite 1300  
Chicago, IL 60601

Village of New Lenox  
701 West Haven Ave.  
New Lenox, Illinois 60451

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board an original and four (4) copies the APPERANCE of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By:   
Sanjay K. Sofat  
Assistant Counsel  
Division of Legal Counsel

Dated: December 30, 2003  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9276  
(217) 782-5544

THIS FILING PRINTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DES PLAINES RIVER WATERSHED ALLIANCE )  
LIVABLE COMMUNITIES ALLIANCE )  
PRAIRIE RIVERS NETWORK, and SIEERA CLUB, )

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APPEARANCE

The undersigned, as one of its attorneys, hereby enters his APPEARANCE on behalf of Respondent, Illinois Environmental Protection Agency.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: 

Sanjay K. Sofat  
Assistant Counsel  
Division of Legal Counsel

DATED: December 30, 2003

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

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**AFFIDAVIT OF SERVICE**

The undersigned, an attorney, states that he caused a copy of the attached **APPEARANCE** to be served upon the following by U.S. Mail:

Dorothy Gunn, Clerk  
Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

Albert F. Ettinger  
Senior Staff Attorney  
Environmental Law & Policy Center  
35 East Wacker Drive, Suite 1300  
Chicago, IL 60601-2208

Village of New Lenox  
701 West Haven Ave.  
New Lenox, Illinois 60451

  
\_\_\_\_\_  
Sanjay K. Sofat

SUBSCRIBED AND SWORN BEFORE ME  
THIS 30<sup>th</sup> DAY OF DECEMBER 2003.

Brenda Boehner



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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
POLLUTION CONTROL BOARD

DES PLAINES RIVER WATERSHED )  
ALLIANCE, LIVABLE COMMUNITIES )  
ALLIANCE, PRAIRIE RIVERS )  
NETWORK, and SIERRA CLUB, )

Petitioners, )

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ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY and VILLAGE OF NEW LENOX )

Respondents. )

PCB 04-88  
(APPEAL FROM IEPA  
DECISION GRANTING  
NPDES PERMIT)

RECORD

Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), in accordance with the procedural rules of the Illinois Pollution Control Board ("Illinois PCB") as set forth in 35 Ill. Adm. Code 105.212 and 105.116, files as its Record in this cause the Illinois EPA's record of the Village of New Lenox's ("New Lenox") National Pollutant Discharge Elimination System ("NPDES") permit public hearing and the Illinois EPA's record of NPDES Permit No. IL0020559, as issued to New Lenox on October 31, 2003, which is attached and consists of the following documents:

Hearing file documents

1. Public notice/fact sheet/draft renewal permit, for public notice period January 5, 2003 through February 4, 2003. (pp. 1-15)
2. Letter dated January 19, 2003, from James K. Bland, Director, Integrated Lakes Management, requesting public hearing. (pp. 16-18)

3. Letter dated January 20, 2003, from Marcia De Vivo, Chairman, Long Run Creek Watershed Planning Committee, requesting public hearing. (pp. 19-20)
4. Letter dated January 20, 2003, from Gary Mechanic, Des Plaines River Watershed Alliance, requesting public hearing. (p. 21)
5. Letter dated January 24, 2003, from Albert Ettinger, Sierra Club, Illinois Chapter, requesting public hearing. (pp. 22-23)
6. Letter dated February 4, 2003, from M. Beth Wentzel, Prairie Rivers Network, requesting public hearing. (pp. 24-25)
7. Memorandum dated February 21, 2003, from Toby Frevert, Illinois EPA, Bureau of Water ("BOW"), to Connie Tonsor, Illinois EPA, Division of Legal Counsel/BOW, requesting public hearing. (pp. 26-27)
8. E-mail communications between Illinois EPA staff, February 21, 2003 through March 5, 2003, concerning public notice and hearing arrangements. (pp. 28-40)
9. Memorandum dated March 6, 2003, from Bill Hammel, Illinois EPA, Office of Community Relations, to Deborah Williams, Hearing Officer, with mailing list of public notice recipients. (pp. 41-45)
10. E-mails between Illinois EPA staff and hearing officer, March 13, April 9, and April 16, 2003, concerning hearing arrangements. (pp. 46-49)
11. Hearing officer note. (p. 50)
12. Notice of public hearing, printed off Illinois EPA website, April 23, 2003. (pp. 51-52)
13. Registration and mailing list cards, April 24, 2003. (pp. 53-55)
14. List of hearing exhibits No. 1 and 2 submitted at hearing April 24, 2003, w/o attachment. (p. 56)

15. Hearing officer notes, April 24, 2003. (pp. 57-60)
16. Transcript of hearing conducted April 24, 2003. (pp. 61-104)
17. Hearing exhibit list with attached exhibits. (pp. 105-308)
18. Memorandum dated April 29, 2003, from Bob Mosher, Illinois EPA, Division of Water Pollution Control ("DWPC")/Water Quality Standards Section; Abel Haile, DWPC/Permit Section; and Bill Hammel; to Toby Frevert, reporting on hearing, and forwarded by Bill Hammel to other Illinois EPA staff. (pp. 309-311)
19. Hearing officer note, May 5, 2003. (p. 312)
20. E-mails from Deborah Williams to Illinois EPA staff, May 15 and 16, 2003, concerning hearing transcript. (pp. 313-317)
21. Memorandum dated May 19, 2003, with attached invoice for court recorder fees. (pp. 318-319)
22. Letter e-mailed on May 23, 2003, from Kimberly Kowalski, President, Livable Communities Alliance, to Deborah Williams, presenting comments. (pp. 320-322)
23. E-mails between Illinois EPA staff and Deborah Williams, September 30, 2003 through October 9, 2003, concerning issuance of responsiveness summary and permit. (pp. 323-327)
24. Memorandum dated October 10, 2003, from Deborah Williams to Renee Cipriano, Director, Illinois EPA, presenting issues of the hearing and the recommendation. (pp. 328-331)
25. E-mails between Deborah Williams and Alan Keller, Illinois EPA, DWPC/Permit Section/Northern Municipal Unit, on October 10, 2003, concerning responsiveness summary. (p. 332)

26. Authorization, signed on October 27, 2003 by Director Cipriano, for issuance of permit to New Lenox. (p. 333)
27. Fax to Ron Sly, October 27, 2003, w/o attached authorization for issuance of permit. (p. 334)
28. Memorandum dated October 31, 2003, from Bill Hammel to Deborah Williams, with attached form letter stating availability of responsiveness summary and NPDES permit, and mailing list of recipients. (pp. 335-338)
29. NPDES permit renewal and responsiveness summary, October 31, 2003. (pp. 339-376)

Permit file documents

30. Bioassay Report for Illinois EPA Region 2, conducted July 11 through 15, 2001. (p. 377-401)
31. Letter dated October 5, 2001, from Illinois EPA, DWPC/Permit Section to New Lenox, notifying of permit expiration date. (p. 402)
32. Letter dated April 2, 2002, from Murat Akyurek, Earth Tech, Inc., to Abel Haile, Illinois EPA, DWPC/Permit Section, with attached memorandum addressing impact of proposed discharge. (pp. 403-418)
33. Memorandum dated May 14, 2002, from Abel Haile to Bob Mosher, Illinois EPA, DWPC/Standards Development Unit, requesting ammonia and anti-degradation analysis. (p. 419)
34. Laboratory sample analysis of New Lenox wastewater treatment plant ("WWTP"), prepared by Suburban Laboratories, Inc. on May 15, 2002. (pp. 420-423)
35. NPDES permit application, received by the Illinois EPA on June 10, 2002. (pp. 424-481)

36. Burden reduction Review Sheet, June 18, 2002. (p. 482)
37. Consultation agency action report, prepared by the Illinois Department of Natural Resources on June 19, 2002. (p. 483)
38. Bioassay Report for New Lenox WWTP, conducted May 30 through June 3, 2002. (pp. 484-507)
39. Memorandum date July 16, 2002, from Scott Twait, Illinois EPA, DWPC, to Abel Haile, concerning water quality based effluent limits. (pp. 508-511)
40. Letter dated August 29, 2002, from Murat Akyurek to Roger Vollbracht, Illinois EPA, Bureau of Water/Infrastructure Final Assistance Section, with attached Hickory Creek biological survey ("Technical Memorandum"). (pp. 512-521)
41. Letter dated September 11, 2002, from Mike Chung, Suburban Laboratories, Inc. to Brian Williams, New Lenox WWTP, with attached laboratory sample analysis. (pp. 522-536)
42. E-mail dated September 11, 2002, from Roy Smogor, Illinois EPA, DWPC/Streams Unit, to Gregg Good, Illinois EPA, DWPC, and Bob Mosher, concerning biological sampling. (p. 537)
43. Letter dated September 12, 2002, from Ron Sly, Public Works Superintendent, New Lenox, to Abel Haile. (pp. 538-539)
44. Letter dated September 19, 2002, from Mike Chung to Brian Williams, with attached laboratory analysis, faxed to Bob Mosher September 24, 2002. (pp. 540-555)
45. E-mail dated September 24, 2002, from Howard Essig, Illinois EPA, DWPC, Des Plaines Regional Office, to Roy Smogor, concerning biological sampling. (pp. 556-558)



46. Memorandum dated October 9, 2002, from Roy Smogor to Bob Mosher and Gregg Good, reviewing Technical Memorandum, with attached note from Mark Joseph, Illinois EPA, DWPC. (pp. 559-561)
47. E-mail dated November 26, 2002, from Gregg Good to Howard Essig, Toby Frevert, Illinois EPA, DWPC, Mark Joseph, Bob Mosher, and Roy Smogor. (p. 562)
48. Memorandum dated November 26, 2002, from Scott Twait to Abel Haile, concerning water quality based effluent limits. (p. 563)
49. Memorandum dated November 26, 2002, from Scott Twait to Abel Haile, concerning antidegradation assessment. (pp. 564-566)
50. Municipal NPDES review sheet, prepared by Abel Haile on December 10, 2002, with attached load limit calculations. (pp. 567-571)
51. Letter dated December 17, 2002, from Alan Keller, to New Lenox, with attached draft permit. (pp. 572-590)
52. Letter faxed December 26, 2002, from Ron Sly to Alan Keller, concerning review of draft permit. (pp. 591-592)
53. Public notice order form, December 30, 2002. (pp. 593-594)
54. Letter dated December 31, 2002, from Alan Keller to New Lenox, municipal clerk of New Lenox, and Edward Karecki, U.S. Fish & Wildlife Service, with attached draft permit and public notice/fact sheet. (pp. 595-614)
55. Public notice acceptance card, signed January 6, 2003. (p. 615)
56. Public notice, as published in The Star newspapers on January 9, 2003. (pp. 616-618)

57. Letters dated January 28, 2003, from Alan Keller to Albert Ettinger and M. Beth Wentzel, w/o attached NPDES draft permit, in response to their letters on January 24, 2003. (pp. 619-624)
58. Memorandum dated February 6, 2003, from Toby Frevert to Marcia Willhite, Illinois EPA, BOW, Chief, with handwritten notation by Marcia Willhite to proceed with public hearing. (pp. 625)
59. Fax dated April 22, 2003, from Brian Williams to Abel Haile, with revisions to average/maximum effluent data. (pp. 626-627)
60. Notice of public hearing, published by The Star newspapers on March 16, 2003. (pp. 628-629)
61. Memorandum dated April 29, 2003, from Bob Mosher to Abel Haile, concerning water based effluent limits for ammonia. (pp. 630-631)
62. Comments on draft responsiveness summary, faxed August 14, 18 and 20, 2003. (pp. 632-647)
63. Letter dated October 1, 2003, from Ron Sly to Alan Keller, approving revised proposed limits for ammonia nitrogen, dissolved oxygen and total dissolved solids. (p. 648)
64. Form letter dated October 31, 2003, from Toby Frevert to concerned citizens, informing of availability of NPDES permit and responsiveness summary on website. (p. 649)
65. Letter dated October 31, 2003, from Toby Frevert to New Lenox, with attached final NPDES Permit No. IL0020559, issued October 31, 2003 and effective November 1, 2003. (pp. 650-659)

Respectfully submitted,

Illinois Environmental Protection Agency

By: 

Sanjay K. Sofat  
Assistant Counsel  
Division of Legal Counsel

DATED: December 31, 2003

Illinois Environmental Protection Agency  
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Post Office Box 19276  
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