

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUL 11 2002


R02-11

STATE OF ILLINOIS  
Pollution Control Board  
(Rulemaking-Water)

IN THE MATTER OF )  
)  
WATER QUALITY AMENDMENTS TO )  
35 Ill. Adm. Code 302.208(e)-(g), 302.504(a) )  
302.575(d), 303.444, 309.141(h); and )  
PROPOSED 35 Ill. Adm. Code 301.267, )  
301.313, 301.413, 304.120, and 309.157 )

NOTICE OF FILING

PLEASE TAKE NOTICE that on this date, July 11, 2002, I filed with Dorothy Gunn, Clerk of the Illinois Pollution Control Board, James R. Thompson Center, 100 West Randolph, Suite 11-500, Chicago, IL 60601, the enclosed Pre-filed Testimony of Cynthia L. Skrukud Regarding The First Notice Proposal.

  
Albert F. Ettinger

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PROPOSED 35 Ill. Adm. Code 301.367, )  
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R02-11 STATE OF ILLINOIS  
(Rulemaking-Pollution Control Board)

**PRE-FILED TESTIMONY OF CYNTHIA L. SKRUKRUD REGARDING THE FIRST NOTICE PROPOSAL**

**Introduction**

The Sierra Club, the Environmental Law and Policy Center of the Midwest ("ELPC") and Prairie Rivers Network ("PRN") submit the following Pre-Filed Testimony of Cynthia L. Skrukud regarding the First Notice Proposal for presentation at the July 25, 2002 hearing scheduled in the above-referenced matter:

**Further Testimony of Cynthia L. Skrukud, Ph.D.**

My name is Cindy Skrukud. I presented testimony in this proceeding at the March 6, 2002 hearing. My professional qualifications and experience were presented in testimony given at that hearing.

I agree strongly with the Board's decision that relaxation of the cyanide standard is not warranted at this time. Further, while the lack of implementation rules for other standards changes remains a matter of serious concern, I will not revisit that issue in this testimony.

I will focus here on the proposed change to allow CBOD5 to be used in permits instead of BOD5. The Board in its opinion specifically encouraged participants to offer additional comment on this matter. Through this testimony, the Sierra Club, ELPC and PRN offer an alternative proposal for CBOD5 effluent regulations that:

- Has all of the advantages of the Illinois EPA proposal,
- Follows the precedent of U.S. EPA,
- Can easily be complied with by Illinois dischargers, but
- Does not allow as great an increase in discharges of oxygen-demanding pollutants into Illinois streams.

The Board certainly should not unnecessarily weaken Illinois' effluent limits. The available evidence indicates that many Illinois waters are violating the Illinois water quality standard for dissolved oxygen. Moreover, it is not true that there is sound evidence showing that discharges of oxygen demanding pollutants are not causing violations of water quality standards in Illinois. In fact, as was explained in the *Post-Hearing Comments of the Environmental Law and Policy Center, Prairie Rivers Network and Sierra Club*, filed April 12, 2002 in this proceeding, the dissolved oxygen standard continues to be violated in many Illinois waters. While we do not know the cause of these violations, many of the affected waters receive significant discharges from sewage treatment plants and other dischargers of oxygen demanding pollutants.

In addition to the instances of violations of the state's dissolved oxygen standard we have previously presented, we now know that 82 hours of continuous monitoring on the DuPage River in August of 2001 shows periods of many hours when the levels of dissolved oxygen dropped well below the standard. This data is from a free-flowing section of the river in Will County and is part of a study that will be published by The Conservation Foundation and the U.S. EPA. Large quantities of discharge from sewage treatment plants upstream could have contributed nutrients and oxygen demanding pollutants leading to this violation (Exhibit 1).

Our proposed language simply adds to the First Notice proposal limitations on the discharge of oxygen demanding pollutants that parallel the federal requirement that effluent discharges shall not exceed 25 mg/L CBOD5 in the situation in which a 30 mg/L BOD5 limit would be applicable. Currently, in order to comply with federal regulations, the last sentence of the proposed new subsection 304.120(g) states:

Effluent from treatment works subject to the requirements of Section 304.120(a) shall not exceed 25 mg/L CBOD5.

To that sentence, the Board at a minimum should add the words "and sources subject to Section 304.120(b) shall not exceed 16 mg/L CBOD5". The last sentence of the proposal would then read:

Effluent from treatment works subject to the requirements of Section 304.120(a) shall not exceed 25 mg/L CBOD5 and sources subject to Section 304.120(b) shall not exceed 16 mg/L CBOD5.

Unnecessary pollution should not be allowed into its rivers, lakes and streams. There is no reason for rejecting our proposed amendment to the First Notice proposal because dischargers can easily meet a 16 mg/L limit. Mr. Michael Callahan, testifying on behalf of the Illinois Association of Wastewater Agencies at the March 6 hearing, made clear that the 10 mg/L effluent limit, applicable to dischargers subject to Section 304.120(a), is "readily attainable." This is hardly surprising given that the Board found over 20 years ago that the 10 mg/L limit could be met using the technology then readily available. See In the Matter of: Amendments to the Water Pollution Control Regulations, No. R77-12 Docket C, 1980 Ill. Env. Lexis 427 (February 21, 1980).

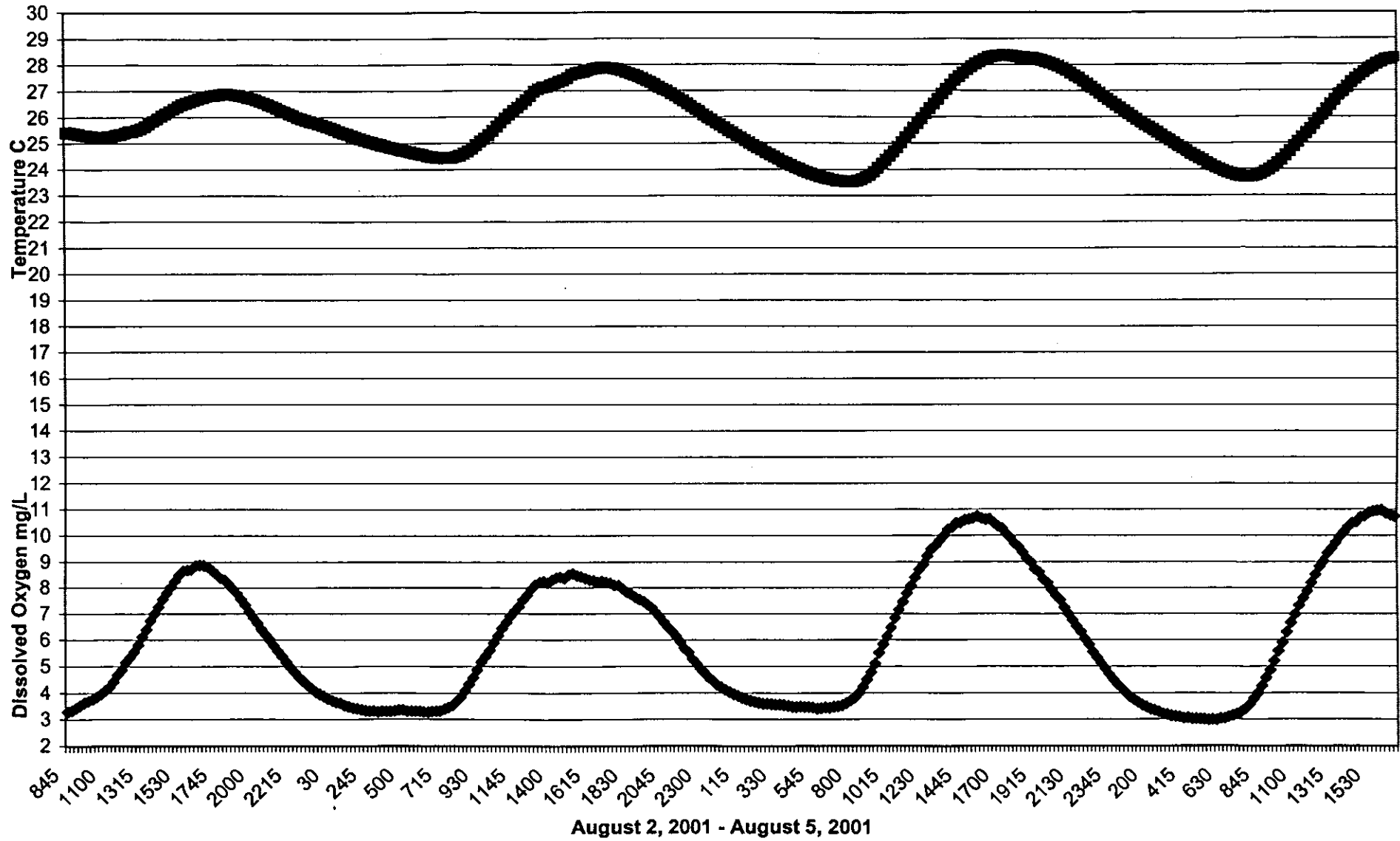
Finally, the Board should not, in any event, allow the matter of protecting Illinois waters from oxygen demanding pollutants to end here. The Agency should be required to develop implementation rules for the dissolved oxygen standard that consider the contribution which nitrogenous BOD makes to the total BOD load in a typical effluent as the nitrogenous component can well make up more than 15% of the total. It is simply not adequate to control the nitrogenous BOD component by assuming that ammonia limits will prevent any problem. As we have previously demonstrated, permits are granted without ammonia limits and with ammonia limits so high that the nitrogenous BOD component could well exceed the carbeneous BOD component of the effluent. Illinois' scheme for regulating deoxygenating wastes needs to consider all likely scenarios.

Cynthia L. Skrukud, Ph. D.  
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July 11, 2002

**EXHIBIT I**

**DuPage River @ 119th Street**



**CERTIFICATE OF SERVICE**

I, Albert F. Ettinger, certify that I have filed the above Notice of Filing together with an original and 9 copies of the Pre-Filed Testimony of Cynthia L. Skrukud Regarding the First Notice Proposal, on recycled paper, with the Illinois Pollution Control Board, James R. Thompson Center, 100 West Randolph, Suite 11-500, Chicago, IL 60601, and served all the parties on the attached Service List by depositing a copy in a properly addressed, sealed envelope with the U.S. Post Office, Chicago, Illinois, with proper postage prepaid on July 11, 2002.

  
Albert F. Ettinger

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