

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AQUA ILLINOIS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 2023-012
)	(Permit Appeal - Public Water Supply)
ILLINOIS ENVIRONMENTAL PROTECTION)	
AGENCY,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To: *See Attached Service List*

PLEASE TAKE NOTICE that on the 29th day of July, 2022, I caused to be filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the attached Respondent's Response to Petitioner's Motion for Partial Stay, a true and correct copy of which is attached hereto and hereby served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

/s/ Kathryn A. Pamenter
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CERTIFICATE OF SERVICE

I, Kathryn A. Pamenter, a Senior Assistant Attorney General, hereby certify that on the 29th day of July, 2022, I caused to be served the foregoing Notice of Electronic Filing and Respondent's Response to Petitioner's Motion for Partial Stay upon the parties named on the attached Service List, via e-mail or electronic filing as indicated.

/s/ Kathryn A. Pamenter
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RESPONDENT’S RESPONSE TO PETITIONER’S MOTION FOR PARTIAL STAY

NOW COMES Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), by and through the Attorney General of the State of Illinois, KWAME RAOUL, and for its Response to Petitioner’s Motion for Partial Stay, hereby states as follows:

1. On July 8, 2022, Petitioner filed its Petition for Review of the Illinois Environmental Protection Agency’s Special Exception Permit Decision and Motion for Partial Stay (“Permit Appeal”).

2. Petitioner’s Motion for Partial Stay seeks a “stay [of] the effectiveness of Additional Conditions 3, 4, and 5 of the 2022 Permit from June 29, 2022 (the date of the 2022 Permit) until the later of (a) the Board’s final resolution of this Petition, or (b) if this Petition is granted, IEPA’s issuance of a corrected permit.” (Permit Appeal at ¶ 45.)

3. Illinois EPA does not object to Petitioner’s requested partial stay as to Petitioner’s obligations under Additional Condition Nos. 3, 4, and 5. Illinois EPA must, though, comply with its obligations under the Illinois Environmental Protection Act and corresponding regulations. For example, notwithstanding the language of Additional Condition No. 3 which the Board may agree to stay, Illinois EPA must set optimal water quality parameter ranges for Petitioner’s University Park public water system. (*Compare* Permit Appeal at Exhibit A, p. 2 (language of Additional

Condition No. 3), *with* Permit Appeal at ¶ 34 (wherein Petitioner recognizes such requirement) and 35 Ill. Adm. Code 611.352(f) (describing Agency requirements for specifying optimal water quality parameter ranges).)

4. In not objecting to Petitioner's requested partial stay as to Petitioner's obligations under Additional Condition Nos. 3, 4, and 5, Illinois EPA reserves all arguments as to the merits of the Permit Appeal. *Cf. Ill. Power Generating Co. (Newton Power Station) v. IEPA*, PCB 16-60, slip. op. at 3 (Dec. 17, 2015) (quoting *Motor Oils Refining Co. v. IEPA*, PCB 89-116, slip. op. at 2 (Aug. 31, 1989) (in granting the unopposed stay, "the Board 'makes no findings on the merits of the permit appeal'").

WHEREFORE, Illinois EPA does not object to the entry of an Order granting Petitioner's requested partial stay as to Petitioner's obligations under Additional Condition Nos. 3, 4, and 5 of the 2022 Permit.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

/s/ Kathryn A. Pamenter

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