

December 17, 2000

To: Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

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STATE OF ILLINOIS
Pollution Control Board

Fr: Jane Johnson, President
Prairie-Woods Environmental Coalition
1776 Knox Hwy. 11
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and

Karen Hudson, President
Families Against Rural Messes
22514 West Claybaugh Road
Elmwood, IL 61529

R01-13
P.C. #21

Re: Public Comment, R01-13
In the Matter of the
Proposed Revisions to Antidegradation Rules,
35 Ill. Administrative Code 302.105, 303.205, 303.206 and
106.990 - 106.995

The Prairie-Woods Environmental Coalition, (PWEC), a grass-roots organization promoting conservation education in Knox County, Illinois schools and the Families Against Rural Messes (F.A.R.M.) organized to educate and encourage responsible stewardship of land and water, promote rural health and craft laws and regulations supporting those goals offer the following:

The focus of the proposed amendments to Section 302.105, must be to maintain the integrity of the cleaner waters of the state of Illinois. It is time that the Illinois Pollution Control Board (IPCB) and the Illinois Environmental Protection Agency (IEPA) adopt beneficial water resource antidegradation rules and enforce them. Since enactment of the Clean Water Act (CWA), citizens have been relying on the IPCB and the IEPA to oversee and protect the quality and safety of Illinois water resources but the agencies have not had in-hand all the tools necessary for the job.

The proposed amendments to the above referenced citations, corrected and refined by citizen participation in the decision-making process, must be adopted so as to maintain the integrity of the cleaner waters of the state.

Section 302.105 (a) requiring that the IPCB must maintain and protect the water bodies of Illinois by not permitting any action that will 1) result in deterioration of any existing water community or cause 2) a loss of an indigenous species beneficial to commercial or recreational activities is confining and unnecessary and should be stricken. All indigenous species should be protected.

Overall, the IPCB proposed amendments must protect the state's higher quality and biologically significant water resources, even where a pollutant which has the potential to violate any water quality standards is released on a temporary basis.

Under 106.992, citizens can petition to have certain Illinois water bodies designated Outstanding Water Resources (OWR) in order to protect them from future pollution but for the public to make use of that offer, burdensome and unnecessary criteria have been imposed. Generally, the public does not have the ways and means to investigate the potential economic impacts of an OWR designation on any given business. What is needed is a fair set of rules clearly written. The petition process should be instituted and encouraged without the above requirement and others of that nature becoming a requisite.

Clearly, the burdensome petition process described in Subpart L of the Rules will discourage the public from ever attempting to petition any waterway in the state for OWR designation. The IPCB, acting fairly in all aspects of the process and as a guardian, must relax the huge burden of proof and notification required of the public for an OWR designation.

Surely in modern times, the IPCB can devise a smoother way for an OWR petitioner to notify interested parties of intent, than for the petitioner to furnish a multitude of lengthy petitions to them. In order for those interested parties to be sufficiently served, why can't the regulators set up a system similar to the one successfully used to notify the public of tentatively issued National Pollution Elimination Discharge System (NPDES) permits, the Public Notice Fact Sheet?

Under Section 303.205 (b), excluding intermittent stream segments with a zero 7Q10 flow from candidacy for OWR designation is a mistake. A case could be made that the receiving waters of discharge from a NPDES permitted operation could be into an (at sometime) intermittent stream. All intermittent streams have their place in the riverine ecosystem.

The citation, 302.105 (b)(2)(C) under the NPDES permit process puzzles me. How can an action set to improve the quality of water bodies in Illinois, be achieved if an increase in water pollutant loading is proposed?

The NPDES general permitting rules should be overhauled to guarantee that the applicant furnish specific antidegradation review of the proposed operation. The revised rules should require permitting agencies to very seriously research the environmental harm the applicant will cause to all the waters of the state, making high quality waters off-limits to new pollution.

A threat to existing Illinois water quality regulation is the standard found in 302.208 (g) for sulfate and chloride discharges into the waters of the state allowed in the NPDES permitting process. An applicant intending to open a coal mine is granted the

privilege of exceeding by seven (7) times the Illinois water quality standards for discharging sulfate and two (2) times the Illinois water quality standards for chloride. This comment period is the perfect time to urge a rule-making change to obliterate these exceedingly generous standards.

What folly for state agencies and the public to continually attempt to protect and restore the quality of water bodies in this state while leaving floodgates open, so to speak, allowing new polluting sources to foul those same waters via the NPDES permit system! "Let us work hard to clean up our water resources therefore making them lovely for another element to defile!"

In keeping with the intent of the anti-degradation rules, surely the IPCB must make certain that Section 302.105 applies to all new or expanded permitted discharges. The language of (b) (1) (B) is contradictory. It allows water quality to be lowered if stormwater discharges do not violate water quality standards. How is that again? 'Point of clarification?

As an aside, Section 302.105 (C) (1), relative to identifying high quality waters in the state of Illinois, contains a grammatical error. The pronoun, "whose," can not be used (along with "who" and "whom") to define possession of any object, article, theme, etc., unless in relation to human beings. Thus, the phrase, "waters of the state whose..." is used incorrectly. (Likewise, "a dog whose tail is crooked," "a book whose title is ...," etc. is incorrect.)

The error is repeated in Section 302.105 a) (2), "an action that would result in a loss of a resident or indogenous species WHOSE presence is necessary ..." Kindly correct.

The IPCB, as interpreter of federal environmental law, must provide a clear state policy and procedures (long overdue) that will help maintain those few places of high quality water in Illinois and one that does not favor those permit applicants seeking least costly alternatives to water quality protection.

The purpose of the antidegradation rule-making changes should be to give the IPCB and the IEPA more power to protect Illinois waterbodies from increased discharges of pollutants and from the impacts of pollutant loading. Another purpose should give those authorities strength to meet future water quality needs beyond just barely meeting water quality standards.

In the interests of the state's economy, it is no longer acceptable to allow certain factions to pollute and pollute and use Illinois waterways as sewers and dump sites. Illinois' cleaner surface and groundwater can be an incentive to new businesses and industries and office complexes to settle and prosper in Illinois. Better pollution control technologies will benefit all strata of the economy. In the long run, it is cheaper to prevent pollution than clean it up after the fact.

The IPCB's policy of nondegradation should contain determinations of whether the economic benefits derived from an activity benefitting a profit-generating operation outweigh the environmental cost paid by taxpayers.

In conclusion, the success of the Board's enactment of new policy and rules depends on adequate oversight and enforcement with sufficient penalties to serve as future deterrents.

Remember that WATER is life!

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