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CLERK'S OFFICE

JUN 12 2003

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO)
PART 309 SUBPART A-)
35 Ill. Adm. Code 309.105, 309.7, 309.8,)
309.9, 309.10, 309.12, 309.13, 309.14)
309.117, 109.119, 309.143, 309.147; and)
PROPOSED 35 Ill. Adm. Code 120 through)
122-NPDES PERMITS AND PERMITTING)
PROCEDURES)

PC#5

R03-19
(NPDES Rulemaking)

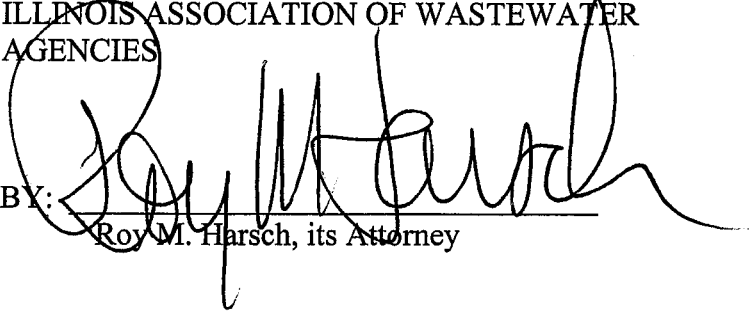
NOTICE OF FILING

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on Thursday, June 12, 2003, we filed the attached **Illinois Association of Wastewater Agencies' Comments to Proposed Revisions and Amendments** with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ASSOCIATION OF WASTEWATER
AGENCIES

BY: 

Roy M. Harsch, its Attorney

Roy M. Harsch
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ILLINOIS ASSOCIATION OF WASTEWATER AGENCIES'
COMMENTS TO PROPOSED REVISIONS AND AMENDMENTS

The Illinois Association of Wastewater Agencies ("IAWA") submits the following comments concerning the proposed amendments to 35 Ill. Adm. Code Part 309, Subpart A, NPDES Permits and Permitting Procedures. IAWA is an association principally comprised of units of local government consisting of sanitary districts and municipalities located throughout Illinois. As public health agencies, IAWA's members are in favor of public participation in the NPDES Permitting process. Notwithstanding the basic support for public participation, IAWA respectfully believes that the proponents of this rulemaking have totally failed to carry their burden to show that there is in fact any need for the proposed revisions. The existing Part 309 has served the state well since its original adoption. The proponents have not shown any objection or comment by the United States Environmental Protection Agency to support the need for the proposed amendment.

After two hearings and numerous stakeholder meetings, the record shows simply that the proponents are unhappy with the outcome of a single permit appeal decision rendered by the Pollution Control Board in Prairie Rivers Network v. Illinois Environmental Protection Agency

and Black Beauty Coal Company, PCB 01-112 (August 9, 2002), and the decision upholding the Board's decision on appeal, aff'd. sub nom. Prairie Rivers Network v. Illinois Pollution Control Board; Illinois Environmental Protection Agency; and Black Beauty Coal Company, No. 4-01-0801 (October 24, 2002).

IAWA respectfully contends that losing a case before the Board, and then losing on appeal, does not equate to a statutory basis to support a rulemaking. The proponents have attempted to place their proposal, which contain numerous substantive revisions within the cloak of public participation. In truth, the proponents have shown themselves adept at using the existing Part 309 to achieve their sought after changes in the very permit, which gave rise to this proceeding. The final Black Beauty permit contained numerous substantive revisions included as a result of the active public participation of the proponents in that proceeding.

IAWA objects to the efforts to amend Part 309 because the proponents in essence do not like the outcome of a particular case. They have not shown any actual need or adverse impact that warrants the suggested changes. IAWA respectfully urges that the Board decline to proceed with the first notice with the current proposal and move to dismiss this proceeding.

Respectfully submitted,

ILLINOIS ASSOCIATION OF WASTEWATER
AGENCIES

BY: 

Roy M. Harsch, its Attorney

DATED: June 12, 2003

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THIS FILING IS SUBMITTED ON RECYCLED PAPER

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **Notice of Filing – Illinois Association of Wastewater Agencies’ Comments to Proposed Revisions and Amendments** were filed by hand delivery with the Clerk of the Illinois Pollution Control Board and served upon the parties to whom said Notice is directed by first class mail, postage prepaid, by depositing in the U.S. Mail at 191 North Wacker Drive, Chicago, Illinois on Thursday, June 12, 2003.



Sheila H. Deely

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