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MAY 6 - 2002

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BOARD OF TRUSTEES OF SOUTHERN)	
ILLINOIS UNIVERSITY GOVERNING)	
SOUTHERN ILLINOIS UNIVERSITY)	
EDWARDSVILLE,)	
)	
Petitioner,)	
)	
v.)	PCB No. 02-105
)	(NPDES Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

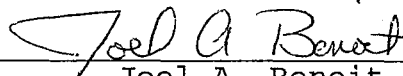
NOTICE OF FILING

To: Sanjay K. Sofat
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794-9276

PLEASE TAKE NOTICE that on 2nd day of May, 2002, I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, Petitioner Board of Trustees of Southern Illinois University Governing Southern Illinois University Edwardsville's Petition for Review of Agency NPDES Permit Decision, a copy of which is attached hereto and herewith served upon you.

BOARD OF TRUSTEES OF SOUTHERN ILLINOIS
UNIVERSITY GOVERNING SOUTHERN ILLINOIS
UNIVERSITY EDWARDSVILLE,
Petitioner

By



Joel A. Benoit

Joel A. Benoit
MOHAN, ALEWELT, PRILLAMAN & ADAMI
1 N. Old Capitol Plaza, Ste. 325
Springfield, IL 62701
Telephone: 217/528-2517
Facsimile: 217/528-2553

Kim L. Kirn
SOUTHERN ILLINOIS
UNIVERSITY EDWARDSVILLE
Office of the General Counsel
Rendleman Hall, Room 3311
Edwardsville, IL 62026-1019
Telephone: 618/650-2514
Facsimile: 618/650-2270

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **STATE OF ILLINOIS**
Pollution Control Board

BOARD OF TRUSTEES OF SOUTHERN)
ILLINOIS UNIVERSITY GOVERNING)
SOUTHERN ILLINOIS UNIVERSITY)
EDWARDSVILLE,)
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Petitioner,)
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v.)
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ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB No. 02-105
(NPDES Permit Appeal)

PETITION FOR REVIEW OF AGENCY NPDES PERMIT DECISION

NOW COMES Petitioner Board of Trustees of Southern Illinois University Governing Southern Illinois University Edwardsville ("SIUE"), pursuant to 415 ILCS 5/40 of the Illinois Environmental Protection Act and Part 105 of the Illinois Pollution Control Board Rules, and hereby appeals National Pollution Discharge and Elimination System Permit Number IL0075311, issued January 2, 2002, by Respondent Illinois Environmental Protection Agency ("Agency").

I. BACKGROUND

SIUE operates a centralized plant to heat and cool the buildings on its main campus. The plant draws water from Tower Lake, a man-made lake constructed on SIUE's campus as a source of water for the plant. The plant returns that water, in the form of non-contact cooling water, back into Tower Lake. The NPDES permit concerns the heated water being discharged into Tower Lake.

II. THE AGENCY'S FINAL DECISION

Pursuant to 35 Ill. Admin. Code § 105.210(a), attached hereto is a copy of the NPDES permit and the Agency's cover letter, itself also containing permit conditions.

III. DATE OF PERMIT ISSUANCE

Pursuant to 35 Ill. Admin. Code § 105.210(b), SIUE states that January 2, 2002, is the issue date and effective date of the NPDES permit. January 2, 2002, is also the date of the Agency cover letter which accompanied the NPDES permit sent to SIUE. Per the parties' request for additional time to negotiate the matter, the Board granted SIUE an extension until May 7, 2002, to file this Petition.

IV. GROUNDS FOR APPEAL

Pursuant to 35 Ill. Admin. Code § 105.210(c), SIUE's grounds for appeal follow:

- A. SIUE's non-contact cooling water is not subject to the requirements of 35 Ill. Admin. Code § 302.211(e);
- B. SIUE is not required to satisfy the temperature requirements set forth in 35 Ill. Admin. Code § 302.211(d) or (e) at the plant's discharge points;
- C. The thermal requirements set forth in 35 Ill. Admin. Code § 302.211(d) are inapplicable to SIUE because, as

a man-made lake which has always been affected by the cooling and heating plant, Tower Lake has no "natural temperature";

- D. Numerous directives set forth in the permit are directed at rivers and not lakes and are, thus, inapplicable to SIUE;
- E. Because the permit provides no guidance as to where SIUE is to monitor temperature in Tower Lake, SIUE has no means of assuring its compliance with 35 Ill. Admin. Code. ¶ 302.211 (d) or (e) or the permit;
- F. The permit directs SIUE to utilize two inconsistent processes (monitoring temperature at the discharge points and using a mixing zone) via one monthly sample; and
- G. The permit's monitoring requirements are inconsistent, e.g., only a single reading per month is required, but the permit requires "monthly average", "daily maximum", and "monthly maximum value" reporting.


IV. REQUESTED RELIEF

WHEREFORE, Petitioner prays that: (a) Respondent produce the record; (b) a hearing be held; (c) the Board determine that Petitioner's discharge does not require an NPDES permit or, alternatively, that the NPDES permit as issued requires Petitioner to comply with conditions not required by the Board's regulations or conditions inapplicable to SIUE; (d) if a NPDES

permit is required, the Board direct the Agency to issue a permit whose conditions are consistent with the Board's regulations; and (e) the Board grant Petitioner such other and further relief as is just.

BOARD OF TRUSTEES OF SOUTHERN ILLINOIS
UNIVERSITY GOVERNING SOUTHERN ILLINOIS
UNIVERSITY EDWARDSVILLE,
Petitioner

By SOUTHERN ILLINOIS UNIVERSITY EDWARDSVILLE
Office of the General Counsel

By 

Kim L. Kirn

Kim L. Kirn
SOUTHERN ILLINOIS UNIVERSITY EDWARDSVILLE
Office of the General Counsel
Rendleman Hall, Room 3311
Edwardsville, IL 62026-1019
Telephone: 618/650-2514
Facsimile: 618/650-2270

By MOHAN, ALEWELT, PRILLAMAN & ADAMI,

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Joel A. Benoit
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1 N. Old Capitol Plaza, Ste. 325
Springfield, IL 62701
Telephone: 217/528-2517
Facsimile: 217/528-2553

**PETITIONER REQUESTS THAT MS. KIRN AND MR. BENOIT
BOTH BE PLACED ON THE SERVICE LIST
AS COUNSEL FOR PETITIONER**

THIS FILING IS SUBMITTED ON RECYCLED PAPER



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

RENÉ CIPRIANO, DIRECTOR

217/782-0610

January 2, 2002

Southern Illinois University Edwardsville
P.O. Box 1028
Edwardsville, Illinois 62026

Re: Southern Illinois University Edwardsville
NPDES Permit No. IL0075311
Final Permit

Gentlemen:

Attached is the final NPDES Permit for your discharge. The Permit as issued covers discharge limitations, monitoring, and reporting requirements. The failure of you to meet any portion of the Permit could result in civil and/or criminal penalties. The Illinois Environmental Protection Agency is ready and willing to assist you in interpreting any of the conditions of the Permit as they relate specifically to your discharge.

The following comments are made in response to the issues you raised concerning temperature in your August 24, 2001 letter:

You state in your letter that you believe Tower Lake is an "artificial cooling lake" and that 35 Ill. Adm. Code 302.211(j) applies to the discharge. However, the Agency has made the determination that Tower Lake fits the definition of "waters of the state" in 35 Ill. Adm. Code 301.440, and is not an "artificial cooling lake." Thus, the temperature limits in Special Condition 2, which are based on 35 Ill. Adm. Code 302.211, apply to the discharge(s) to Tower Lake. Also, for clarification purposes, temperature monitoring will be required at a point representative of the discharge(s) but prior to entry into Tower Lake.

The Permit as issued is effective as of the date indicated on the first page of the Permit. You have the right to appeal any condition of the Permit to the Illinois Pollution Control Board within a 35 day period following the issuance date.

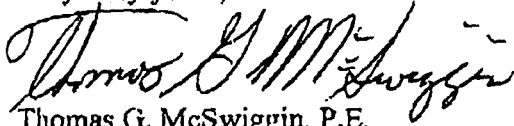
To assist you in meeting the self-monitoring and reporting requirements of your reissued NPDES permit, a supply of preprinted Discharge Monitoring Report (DMR) forms for your facility is being prepared. These forms will be sent to you prior to the initiation of DMR reporting under the reissued permit. Additional information and instructions will accompany the preprinted DMRs upon their arrival.

GEORGE H. RYAN, GOVERNOR

Page 2

Should you have questions concerning the Permit, please contact Fred Rosenblum at the telephone number indicated above.

Very truly yours,



Thomas G. McSwiggin, P.E.
Manager, Permit Section
Division of Water Pollution Control

TGM:FLR:01040501.map

Attachment: Final Permit

cc: Records
Compliance Assurance Section
Collinsville Region
SIMAPC

NPDES Permit No. IL0075311
Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

New (NPDES) Permit

Expiration Date: December 31, 2006

Issue Date: January 2, 2002
Effective Date: January 2, 2002

Name and Address of Permittee:

Southern Illinois University Edwardsville
P.O. Box 1028
Edwardsville, Illinois 62026

Facility Name and Address:

Southern Illinois University Edwardsville
Highway 157
Edwardsville, Illinois 62026
(Madison County)

Discharge Number and Name:

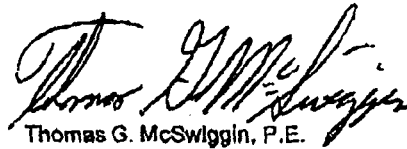
001 Non-Contact Cooling Water
002 Non-Contact Cooling Water

Receiving Waters:

Tower Lake
Tower Lake via flume

In compliance with the provisions of the Illinois Environmental Protection Act, Title 35 of Ill. Adm. Code, Subtitle C and/or Subtitle D, Chapter 1, and the Clean Water Act (CWA), the above-named permittee is hereby authorized to discharge at the above location to the above-named receiving stream in accordance with the standard conditions and attachments herein.

Permittee is not authorized to discharge after the above expiration date. In order to receive authorization to discharge beyond the expiration date, the permittee shall submit the proper application as required by the Illinois Environmental Protection Agency (IEPA) not later than 180 days prior to the expiration date.



Thomas G. McSwiggin, P.E.
Manager, Permit Section
Division of Water Pollution Control

NPDES Permit No. IL0075311

Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS lbs/day DAE (DMF)		CONCENTRATION LIMITS mg/l		SAMPLE FREQUENCY	SAMPLE TYPE
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		
1. From the effective date of this permit until the expiration date, the effluent of the following discharge(s) shall be monitored and limited at all times as follows:						
Outfall(s): 001						
Flow (MGD)	See Special Condition 1				1/Month	Single Reading
Temperature	See Special Condition 2				1/Month	Single Reading
Outfall(s): 002						
Flow (MGD)	See Special Condition 1				1/Month	Single Reading
Temperature	See Special Condition 2				1/Month	Single Reading

NPDES Permit No. IL0075311

Special Conditions

SPECIAL CONDITION 1. Flow shall be reported as a monthly average and daily maximum.

SPECIAL CONDITION 2. Discharge of wastewater from this facility must not alone or in combination with other sources cause the receiving stream to violate the following thermal limitations at the edge of the mixing zone which is defined by Section 302.211, Illinois Administration Code, Title 35, Chapter 1, Subtitle C, as amended:

- A. Maximum temperature rise above natural temperature must not exceed 5°F (2.8°C).
- B. Water temperature at representative locations in the main river shall not exceed the maximum limits in the following table during more than one (1) percent of the hours in the 12-month period ending with any month. Moreover, at no time shall the water temperature at such locations exceed the maximum limits in the following table by more than 3°F (1.7°C). (Main river temperatures are temperatures of those portions of the river essentially similar to and following the same thermal regime as the temperatures of the main flow of the river.)

	<u>Jan.</u>	<u>Feb.</u>	<u>Mar.</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug.</u>	<u>Sept.</u>	<u>Oct.</u>	<u>Nov.</u>	<u>Dec.</u>
°F	80	60	60	90	90	90	90	90	90	90	90	60
°C	18	16	16	32	32	32	32	32	32	32	32	16

- C. The monthly maximum value shall be reported on the DMR form.

SPECIAL CONDITION 3. Samples taken in compliance with the effluent monitoring requirements shall be taken at a point representative of the discharge, but prior to entry into the receiving stream.

SPECIAL CONDITION 4. The permittee shall record monitoring results on Discharge Monitoring Report forms using one such form for each discharge each month. The completed Discharge Monitoring Report form shall be submitted monthly to IEPA, no later than the 15th of the following month, unless otherwise specified by the Agency, to the following address:

Illinois Environmental Protection Agency
 Bureau of Water
 Compliance Assurance Section
 1021 North Grand Avenue East
 Post Office Box 19276
 Springfield, Illinois 62794-8276

SPECIAL CONDITION 5. If an applicable effluent standard or limitation is promulgated under Sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the NPDES Permit, the Agency shall revise or modify the permit in accordance with the more stringent standard or prohibition and shall so notify the permittee.

SPECIAL CONDITION 6. In addition to the other requirements of this permit, no effluent shall contain settleable solids, floating debris, visible oil, grease, scum, or sludge solids. Color, odor, and turbidity shall be reduced to below obvious levels.

SPECIAL CONDITION 7. For the purpose of this Permit, outfall 001 and 002 are limited to non-contact cooling water, free from chemical additives. In the event the Permittee requires the use of water treatment additives, the Permittee shall request a modification in the permit in accordance with the Standard Conditions, Attachment H.

ATTACHMENT M

Standard Conditions

Definitions

Act means the Illinois Environmental Protection Act, Ch. 111 1/2 Ill. Rev. Stat. Sec. 1001, 1052 as Amended.

Agency means the Illinois Environmental Protection Agency.

Board means the Illinois Pollution Control Board.

Clean Water Act (formerly referred to as the Federal Water Pollution Control Act) means Pub. L. 92-500, as amended, 33 U.S.C. 1251 et seq.

NPDES (National Pollutant Discharge Elimination System) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318 and 405 of the Clean Water Act.

USEPA means the United States Environmental Protection Agency.

Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Maximum Daily Discharge Limitation (daily maximum) means the highest allowable daily discharge.

Average Monthly Discharge Limitation (30 day average) means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Average Weekly Discharge Limitation (7 day average) means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control silt site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Aliquot means a sample of specified volume used to make up a total composite sample.

Grab Sample means an individual sample of at least 100 milliliters collected at a randomly selected time over a period not exceeding 15 minutes.

24 Hour Composite Sample means a combination of at least 8 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over a 24-hour period.

8 Hour Composite Sample means a combination of at least 3 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over an 8-hour period.

Flow Proportional Composite Sample means a combination of sample aliquots of at least 100 milliliters collected at periodic intervals such that either the time interval between each aliquot or the volume of each aliquot is proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot.

- (1) Duty to comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or for denial of a permit renewal application. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (2) Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. If the permittee submits a proper application as required by the Agency no later than 180 days prior to the expiration date, this permit shall continue in full force and effect until the final Agency decision on the application has been made.
- (3) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- (4) Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- (5) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up, or auxiliary facilities, or similar systems only when necessary to achieve compliance with the conditions of the permit.

- (6) Permit actions. This permit may be modified, revoked and replaced, or terminated for cause by the Agency pursuant to 40 CFR 122.62. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- (7) Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.
- (8) Duty to provide information. The permittee shall furnish to the Agency within a reasonable time, any information which the Agency may request to determine whether cause exists for modifying, revoking and reissuance, or terminating this permit, or to determine compliance with the permit. The permittee shall also furnish to the Agency, upon request, copies of records required to be kept by this permit.
- (9) Inspection and entry. The permittee shall allow an authorized representative of the Agency, upon the presentation of credentials and other documents as may be required by law, to:
 - (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
 - (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
 - (d) Sample or monitor at reasonable times, for the purpose of assuring permit compliance, or as otherwise authorized by the Act, any substance or parameters at any location.
- (10) Monitoring and records.
 - (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
 - (b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records, and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of this permit, measurement, report or application. This period may be extended by request of the Agency at any time.
 - (c) Records of monitoring information shall include:
 - (1) The date, exact place, and time of sampling or measurements;
 - (2) The individual(s) who performed the sampling or measurements;
 - (3) The dates the analyses were performed;
 - (4) The individual(s) who performed the analyses;
 - (5) The analytical techniques or methods used; and
 - (6) The results of such analyses.
 - (d) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Where no test procedure under 40 CFR Part 136 has been approved, the permittee must submit to the Agency a test method for approval. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to assure accuracy of measurements.
- (11) Signatory requirement. All applications, reports or information submitted to the Agency shall be signed and certified.
 - (a) Application. All permit applications shall be signed as follows:
 - (1) For a corporation: by a principal executive officer of at least the level of vice president or a person or position having overall responsibility for environmental matters for the corporation;
 - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
 - (b) Reports. All reports required by permits, or other information requested by the Agency shall be signed by a person described in paragraph (a) or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - (1) The authorization is made in writing by a person described in paragraph (a); and
 - (2) The authorization specifies either an individual or a position responsible for the overall operation of the facility, from which the discharge originates, such as a plant manager, superintendent or person of equivalent responsibility; and
 - (3) The written authorization is submitted to the Agency.

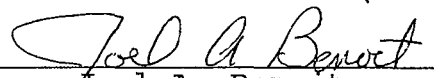
CERTIFICATE OF SERVICE

I hereby certify that I did on the 2nd day of May, 2002, send by First Class Mail with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument entitled PETITIONER BOARD OF TRUSTEES OF SOUTHERN ILLINOIS UNIVERSITY GOVERNING SOUTHERN ILLINOIS UNIVERSITY EDWARDSVILLE'S PETITION FOR REVIEW OF AGENCY NPDES PERMIT DECISION

To: Sanjay K. Sofat
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794-9276

and the original and nine copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s) along with a seventy five dollar (\$75) filing fee

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
Suite 11-500
100 West Randolph
Chicago, IL 60601


Joel A. Benoit

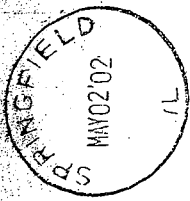
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WELT, PRILLAMAN & ADAMI
LAWYERS
SUITE 325
1111 OLD CAPITOL PLAZA
Springfield, Illinois 62701-1323



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First Class Mail

MOHAN, ALEWELT, PRILLAMAN & ADAMI
LAWYERS
SUITE 325
1111 NORTH OLD CAPITOL PLAZA
SPRINGFIELD, ILLINOIS 62701-1323

DOROTHY GUNN CLERK
ILLINOIS POLLUTION CONTROL BOARD
STATE OF ILLINOIS CENTER
SUITE 11-500
100 WEST RANDOLPH
CHICAGO IL 60661