

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

RECEIVED
CLERK'S OFFICE

JUL 14 2005

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
PETITION OF THE VILLAGE OF) AS 05-02
BENSENVILLE FOR AN ADJUSTED) (Adjusted Standard – Water)
STANDARD FROM)
35 ILL. ADM. CODE 620.410)
REGARDING CHLORIDE)

**PETITIONER'S RESPONSE TO ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY'S RECOMENDATION**

Petitioner, Village of Bensenville, by and through its attorneys McGuireWoods LLP, pursuant to the Board's order of June 16, 2005, files this Response to the Illinois Environmental Protection Agency's Recommendation. The Order allows Petitioner to submit a Response 14 days after being served with the Agency's Recommendation. This Response is timely in that Petitioner was served with the Recommendation on July 12, 2005.

As an initial matter, Petitioner appreciates the Board facilitating the filing of its Second Amended Petition and further appreciates the Agency's efforts to discuss and resolve certain factual issues between the parties. This has allowed Petitioner to revise its petition so that the Agency can agree that the proposed relief should be granted as is reflected in the Agency's Recommendation. Based on the extensive information provided by Petitioner, the Agency's Recommendation, and the lack of any contrary material in the record, the Board should grant this relief.

Although the Agency recommended that the relief should be granted, it identified certain factual issues which it specifically stated did not alter its positive

recommendation. Since these issues were raised by the Agency however, Petitioner addresses them in order to clarify these issues for the Board and document that they do not detract in any way from the request for relief.

In Paragraph 5, the Agency states that it “cannot corroborate” the statement on Page 7 of the Petition that no other constituent in site groundwater currently exceeds Illinois Class I groundwater standards. The statement noted by the Agency is more accurate if qualified by the phrase “not attributable to naturally occurring conditions,” which is stated in the sentence before it in the Petition. Iron and TDS exceed Class I standards but are attributed to naturally occurring conditions.

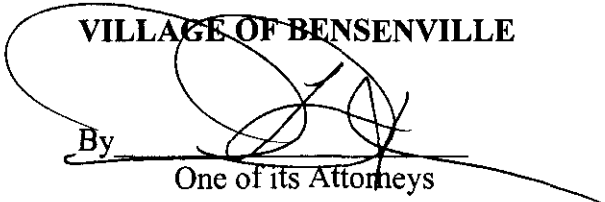
In Paragraph 7 the Agency notes that Petitioner bases its groundwater velocity on a text rather than actual measurements. Petitioner notes that this text is recognized as an authority on this issue. In any event, the purpose of discussing groundwater velocity was to identify and cost potential compliance approaches. Since Petitioner sought to provide primarily an order of magnitude cost estimate, testing to identify actual groundwater velocities was not performed.

Similarly in Paragraph 8, the Agency states that it cannot corroborate the cost estimates provided by Petitioner. Again, these were order of magnitude estimates based on reasonable sources of the sort typically relied on by consultants. These sources are identified in the Petition and in Exhibit 6. Petitioner believes that these estimates provide the Board with a reasonable idea of the expected costs of these compliance options especially in light of the strong probability, discussed in the Petition, that remedial or control approaches will not be useful in addressing the identified chloride problem. In

any event, these estimates are sufficient to allow the Board to balance those costs against the documented lack of any environmental benefit associated with these activities.

Again Petitioner appreciates the opportunity to file its Second Amended Petition and the Agency's Recommendation that the relief should be granted. In light of that positive Recommendation, Petitioner waives its right to a hearing. If the Board determines that it has questions that require more formal discussion, Petitioner would appreciate the opportunity to respond to these questions either in response to a Board order or at a public hearing.

WHEREFORE, for the reasons stated in the Second Amended Petition and the Agency's Recommendation, Petitioner respectfully requests that the Board grant this relief.

VILLAGE OF BENSENVILLE
By 
One of its Attorneys

Date: July 14, 2005

David L. Rieser
McGuireWoods LLP
77 West Wacker Drive
Suite 4100
Chicago, Il 60601
312-849-8249

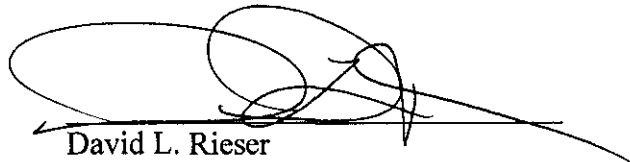
WREA\271861.1

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF:)
)
PETITION OF THE VILLAGE OF) AS 05-02
BENSENVILLE FOR AN ADJUSTED) (Adjusted Standard – Water)
STANDARD FROM)
35 ILL. ADM. CODE 620.410)
REGARDING CHLORIDE AND LEAD)

PROOF OF SERVICE

I, David L. Rieser, an attorney, hereby certify that I caused the attached pleadings to be served upon all parties listed on the attached Notice of Filing via first class U.S. mail from 77 West Wacker Drive, Chicago, IL, on July 14, 2005.


David L. Rieser

MCGUIREWOODS LLP
David L. Rieser
77 West Wacker Drive, Suite 4100
Chicago, Illinois 60601
(312) 849-8100