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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
August 30, 2005

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO) R04-25
DISSOLVED OXYGEN STANDARD 35 ILL.) (Rulemaking - Water)
ADM. CODE 302.206)

HEARING OFFICER ORDER

On August 25, 2005, in Chicago, the Board held the third hearing in this rulemaking. The rulemaking proponent, the Illinois Association of Wastewater Agencies, seeks to amend the Board's rule establishing general use water quality standards for dissolved oxygen (35 Ill. Adm. Code 302.206). In this order, the hearing officer discusses two rulings made at the third hearing.

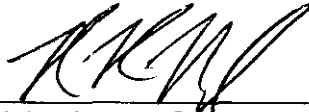
First, the Illinois Environmental Protection Agency (Agency) asked at hearing to have the opportunity to continue stakeholder discussions regarding the dissolved oxygen standard and to submit a status report on those discussions in two months. The hearing officer granted the Agency's request, and required that the Agency file the status report with the Board by November 1, 2005. The hearing officer also noted that the "mailbox rule" (35 Ill. Adm. Code 101.300(b)(2)) would not apply to this filing, and that, accordingly, the Board must receive the Agency's status report by November 1, 2005. This filing may be made electronically through the Board's Web-based Clerk's Office On-Line (COOL) at www.ipcb.state.il.us. Any filing with the Board must also be served on the hearing officer and on those persons on the Service List.

Second, the Illinois Department of Natural Resources (DNR) stated at hearing that it would not be presenting, at the third hearing, the witness for whom it had prefiled testimony, Dr. David L. Thomas. DNR represented that it, like the Agency, wished to pursue stakeholder discussions regarding the dissolved oxygen standard. DNR also stated that Dr. Thomas' prefiled testimony, filed with the Board on August 4, 2005, no longer represents DNR's position. DNR therefore made a motion to withdraw the prefiled testimony of Dr. Thomas, which the hearing officer granted.

Although Dr. Thomas' August 4, 2005 prefiled testimony is withdrawn, the filing itself remains part of and physically present in the official Clerk's office record of this rulemaking proceeding. Accordingly, when reading another document in this record that refers to Dr. Thomas' prefiled testimony, such as Public Comment 81, a member of the public will be able to locate the referenced DNR filing. To avoid any potential confusion, however, the R04-25 docket sheet entry for Dr. Thomas' prefiled testimony will reflect that the hearing officer granted DNR's motion to withdraw the prefiled testimony, as it no longer represents DNR's position. For further

clarity, the Clerk's office has been instructed to physically and electronically attach this hearing officer order to the front of Dr. Thomas' August 4, 2005 prefiled testimony.

IT IS SO ORDERED.



Richard R. McGill, Jr.
Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
(312) 814-6983 mcgillr@ipcb.state.il.us