

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SANITARY DISTRICT OF)	
DECATUR,)	
)	
Petitioner,)	
)	
v.)	PCB 09-125
)	(Variance – Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Mr. John T. Therriault	Carol Webb, Esq.
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 W. Randolph Street	1021 North Grand Avenue East
Suite 11-500	Post Office Box 19274
Chicago, Illinois 60601	Springfield, Illinois 62794-9274
(VIA ELECTRONIC MAIL)	(VIA FIRST CLASS MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board PETITIONER'S RESPONSE TO THE RECOMMENDATION OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, a copy of which is herewith served upon you.

Respectfully submitted,

SANITARY DISTRICT OF DECATUR,
Petitioner,

Dated: September 30, 2009

By: /s/Katherine D. Hodge
Katherine D. Hodge

Katherine D. Hodge
Lauren C. Lurkins
HODGE DWYER & DRIVER
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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)	(Variance – Water)
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**PETITIONER’S RESPONSE TO THE RECOMMENDATION
OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

NOW COMES Petitioner, Sanitary District of Decatur (“Petitioner”), by and through its attorneys, HODGE DWYER & DRIVER, and, pursuant to 35 Ill. Admin. Code § 104.220, hereby states the following for its Response to the Recommendation of the Illinois Environmental Protection Agency (“Agency”):

I. BACKGROUND

1. On June 15, 2009, Petitioner filed its Petition for Variance (“Petition”) requesting a variance authorizing continued discharges of Nickel and Zinc, from its wastewater treatment plant located in Decatur, Macon County, Illinois, into the Sangamon River, pursuant to the terms and conditions outlined in the Petition.

2. On June 18, 2009, the Illinois Pollution Control Board (“Board”) accepted the Petition.

3. On July 30, 2009, the Agency filed its Recommendation and recommended the Board grant the variance requested by Petitioner, contingent upon the Board including four conditions in the variance.

Electronic filing - Received, Clerk's Office, September 30, 2009

4. On August 17, 2009, Petitioner filed a Motion for Extension of Time to File a Response to the Agency's Recommendation ("Motion for Extension of Time"), and asked the Board for an additional thirty (30) days from the original response deadline of August 17, 2009, or until September 16, 2009, to file a Response to the Recommendation of the Agency.

5. On August 18, 2009, the Hearing Officer granted Petitioner's Motion for Extension of Time.

6. Petitioner and Archer Daniels Midland Company ("ADM"), one of Petitioner's most significant industrial users (and a significant contributor of Nickel and Zinc loading), met with the Agency on September 9, 2009, to discuss the status of the matter and obtain clarification of the conditions recommended by the Agency in its Recommendation.

7. On September 16, 2009, Petitioner filed an additional Motion for Extension of Time, and asked the Board for an additional fourteen (14) days from September 16, 2009, or until September 30, 2009, to file a Response to the Recommendation of the Agency. Petitioner asked the Board for the additional time in order to exchange additional information with the Agency with regard to the recommended conditions and to incorporate such information into its Response to the Recommendation of the Agency.

8. On September 17, 2009, the Hearing Officer granted Petitioner's Motion for Extension of Time.

II. VARIANCE CONDITIONS RECOMMENDED BY THE AGENCY

9. In its Recommendation, the Agency recommended “that the Board grant the variance from the current permit limits for Nickel and Zinc for a period of five years,” but also stated that its “recommendation to grant the variance is contingent upon the Board including the following conditions in the variance:

- a. Petitioner must amend its pretreatment ordinance within three months after the filing of this Recommendation to include Nickel and Zinc limits for all Significant Industrial Users, present and future, that will ensure compliance with Petitioner’s NPDES permit limits for those parameters.
- b. Petitioner must pursue a sludge wasting technology that eliminates the sludge produced by ADM from the SDD wastewater treatment influent. The Illinois EPA has determined that this technology is available to Petitioner and is likely to eliminate the permit compliance problem for the Zinc parameter and reduce the permit compliance problem for the Nickel parameter.
- c. Petitioner must, in addition to the items listed in Section IV.10 on page 42 of the Petition, include Illinois EPA in meetings to discuss interim progress at the July 1, 2010 and July 1, 2011 benchmarks. Before SDD can dismiss treatment technology as a solution to the Zinc and Nickel water quality standards problem, Illinois EPA must agree with SDD that all viable technologies have been adequately explored by SDD. Only after such agreement with Illinois EPA may SDD pursue site-specific relief from the Board. If SDD identifies an appropriate technology to remedy the Zinc and Nickel water quality standards problem, SDD must pursue the technology as soon as possible to achieve compliance with NPDES Permit No. IL0028321.
- d. Finally, as mentioned in Section IV of this Recommendation, above, Illinois EPA requests that the Board make the Variance conditional upon Petitioner’s investigation of the additional technologies of electro-chemical decomposition and capacitive deionization as part of its ‘technical and economic feasibility reviews’ discussed in Section VI.9.a.i. of the Petition.”

Agency Recommendation at 11-12 (July 30, 2009).

**III. PETITIONER'S RESPONSE TO VARIANCE CONDITIONS
RECOMMENDED BY THE AGENCY**

A. Amendment of Pretreatment Ordinance

10. Petitioner has begun the process of amending its pretreatment ordinance to include Nickel and Zinc limits for all Significant Industrial Users ("SIUs"), present and future, that will ensure compliance with Petitioner's National Pollutant Discharge Elimination System permit limits for those parameters. Petitioner expects that its Board of Trustees will adopt the amended pretreatment ordinance in advance of the three month deadline specified by the Agency, which is October 30, 2009. Petitioner's amended pretreatment ordinance will reflect more stringent Nickel and Zinc limits for current and future SIUs, and will ensure that dischargers meet those limits by a future compliance date or according to the compliance schedule set forth in the Petition.

11. Petitioner also intends to file the amended pretreatment ordinance with the United States Environmental Protection Agency ("USEPA") for approval. Petitioner does not anticipate any problems associated with USEPA approval of the amended pretreatment ordinance.

12. Petitioner has communicated with the Agency regarding the above-referenced information, and the Agency has no objection to the same. Overall, Petitioner has no objection to variance condition a.

B. Pursuit of Sludge Wasting Technology

13. As stated above, the Agency recommends that, as a condition of the variance, Petitioner be required to "pursue a sludge wasting technology that eliminates

the sludge produced by ADM from the SDD wastewater treatment influent.” Agency Recommendation at 11 (July 30, 2009). The Agency also states that “this technology is available to Petitioner and is likely to eliminate the permit compliance problem for the Zinc parameter and reduce the permit compliance problem for the Nickel parameter.” Id. at 12.

14. Petitioner does not believe it is appropriate to require implementation of sludge wasting technology prior to completion of the assessment of all potentially viable technologies that will occur during the first two years of the variance. Sludge wasting is one of several alternative compliance strategies, and Petitioner should have the ability to evaluate the cost-effectiveness of all such strategies before being required to implement any of them. Thus, Petitioner disagrees with the Agency’s recommended condition b to the extent it could be construed to require implementation in a manner other than as set forth in Petitioner’s suggested conditions contained in Part VI of the Petition at pages 37 through 42.

15. Further, as a result of changes in the characteristics of ADM’s effluent sludge, removal by ADM may be of limited benefit in reducing Nickel and Zinc in Petitioner’s effluent. ADM’s elimination of chemicals containing Zinc from its cooling water treatment program dramatically lowered the soluble Zinc component in ADM’s effluent. This, possibly coupled with the maturation of ADM’s recently installed anaerobic wastewater treatment system, has dramatically changed the characteristics of ADM’s Zinc discharges from approximately 80% soluble Zinc to approximately 20% soluble Zinc.

16. Petitioner already has a sludge removal system in place at its treatment plant which removes a high level of the insoluble Zinc from its influent. The sludge generated from that system is, in turn, being land applied in accordance with applicable regulations, such that the Zinc it contains is not discharged in the effluent. As a result, the value of adding a solids removal system prior to discharge to Petitioner's plant is limited in that a high percentage of those solids are already being removed at the plant and are not being discharged. Such a system would be largely redundant.

17. Even so, Petitioner concurs with recommended condition b to the extent that a sludge wasting technology should be evaluated, and Petitioner has agreed to do so as one of the technologies to be considered under paragraph 9(a)(6) of the compliance plan set forth in Part VI of the Petition at page 40. Such removal could still play a part in the final compliance system. However, Petitioner believes its evaluation should be done concurrently with the other options as set forth in that compliance plan.

18. Petitioner has communicated with the Agency regarding the above-referenced information. Petitioner and the Agency agree that sludge wasting will be evaluated as part of the assessment of all potentially viable technologies.

C. Agency Involvement in Benchmark Meetings

19. Petitioner and the Agency have discussed the language in the Agency's recommended condition c above, and have agreed that condition c should be revised to state as follows:

Petitioner must include Illinois EPA in meetings to discuss interim progress at the July 1, 2010 and July 1, 2011 benchmarks. If any technically reasonable technology is identified that does not impose an arbitrary or unreasonable hardship on SDD and remedies the Zinc and

Nickel water quality standards problem, in whole or in part, SDD must pursue that technology either (i) as soon as possible after identification or (ii) immediately following the July 1, 2011 benchmark meeting with Illinois EPA, whichever comes first.

20. In light of the agreement between the parties, Petitioner and the Agency have no objection to this revised variance condition c.

D. Investigation of Additional Technologies

21. As stated above, the Agency recommends that, as a condition of the variance, Petitioner be required to investigate “the additional technologies of electro-chemical decomposition and capacitive deionization as part of its ‘technical and economic feasibility reviews’ discussed in Section VI.9.a.i. of the Petition.”

22. Petitioner has no objection to this variance condition. In fact, Petitioner understands that ADM has already begun researching those technologies. Petitioner also understands that ADM’s preliminary research has indicated that these technologies have not been developed to the point they have become commercial and that their application may be cost prohibitive. However, ADM has not completed its evaluation of those technologies and has indicated its commitment to continue that evaluation on a track parallel to the other technologies it has committed to evaluate as set forth in Part VI, Section 9, subpart (a) of the Petition at pages 39-41.

23. Petitioner has communicated with the Agency regarding the above-referenced information, and the Agency has no objection to the same. Overall, Petitioner has no objection to variance condition d.

IV. CONCLUSION

WHEREFORE, Petitioner, SANITARY DISTRICT OF DECATUR, respectfully requests that the Illinois Pollution Control Board accept for its consideration Petitioner's Response to the Recommendation of the Illinois Environmental Protection Agency.

Respectfully submitted,

SANITARY DISTRICT OF DECATUR,
Petitioner,

Dated: September 30, 2009

By: /s/Katherine D. Hodge
Katherine D. Hodge

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HODGE DWYER & DRIVER
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SDOD:001/Filings/Response to Agency Recommendation (9.30.09)

CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, hereby certify that I have served the attached PETITIONER'S RESPONSE TO THE RECOMMENDATION OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY upon:

Mr. John T. Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

via electronic mail on September 30, 2009; and upon:

Carol Webb, Esq.
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Post Office Box 19274
Springfield, Illinois 62794-9274

Chad M. Kruse, Esq.
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois, on September 30, 2009.

/s/Katherine D. Hodge
Katherine D. Hodge