

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
WATER QUALITY STANDARDS AND)
EFFLUENT LIMITATIONS FOR THE) R08-9
CHICAGO AREA WATERWAY SYSTEM) (Rulemaking – Water)
AND THE LOWER DES PLAINES RIVER:)
PROPOSED AMENDMENTS TO 35 ILL..) (Subdocket B)
ADM. CODE PARTS 301, 302, 303 and 304)

NOTICE OF FILING

To:

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Persons on the attached service list

Please take notice that on the 28th Day of June, 2010, I filed with the Office of the Clerk of the Illinois Pollution Control Board the attached **Environmental Groups' Response to Metropolitan Water Reclamation District of Greater Chicago's Motion for Leave to File and Set a Hearing on the UIC CHEERS Report**, a copy of which is hereby served upon you.



By: _____
Ann Alexander, Natural Resources Defense Council

Dated: June 28th, 2010

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CERTIFICATE OF SERVICE

I, Ann Alexander, the undersigned attorney, hereby certify that I have served the attached **Environmental Groups' Response to Metropolitan Water Reclamation District of Greater Chicago's Motion for Leave to File and Set a Hearing on the UIC CHEERS Report** on all parties of record (Service List attached), by depositing said documents in the United States Mail, postage prepaid, from 227 W. Monroe, Chicago, IL 60606, before the hour of 5:00 p.m., on this 28th Day of June, 2010.



Ann Alexander, Natural Resources Defense Council

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IN THE MATTER OF:)	
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WATER QUALITY STANDARDS AND)	
EFFLUENT LIMITATIONS FOR THE)	R08-9
CHICAGO AREA WATERWAY SYSTEM)	(Rulemaking – Water)
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**ENVIRONMENTAL GROUPS’ RESPONSE TO METROPOLITAN
WATER RECLAMATION DISTRICT OF GREATER CHICAGO’S MOTION
FOR LEAVE TO FILE AND SET A HEARING ON THE UIC CHEERS REPORT**

Natural Resources Defense Council, Openlands, Sierra Club – Illinois Chapter, Environmental Law and Policy Center, Friends of the Chicago River, Southeast Environmental Task Force, and Alliance for the Great Lakes (collectively, “Environmental Groups”) respectfully submit this memorandum in opposition to the motion of the Metropolitan Water Reclamation District (“MWRD”) for leave to file the final Chicago Health, Environmental Exposure, and Recreation Study (“CHEERS”) and to set a hearing concerning it.

MWRD’s motion is essentially a renewal of its March 8, 2010 motion for hearings concerning the final CHEERS study. The motion reiterates, largely word for word, arguments made in connection with that earlier motion and in opposition to the Environmental Groups’ motion to sever filed February 3, 2010. On March 18, the Board granted the motion to sever, and also granted the portion of MWRD’s earlier motion that requested an opportunity for hearings regarding the technical reports; but declined to schedule hearings concerning the CHEERS final report.

Because MWRD’s motion presents essentially no new arguments of information, and is merely a rehash of arguments presented earlier, the Environmental Groups will summarize our

position briefly here, and respectfully refer the Board to our earlier briefs concerning our February 3 motion to sever. In summary, however, the CHEERS epidemiological study, while it is sound science and a very interesting first overview of CAWS epidemiological issues, cannot serve as a basis to reject the Illinois Environmental Protection Agency (“IEPA”) rule proposal requiring disinfection at the MWRD plants. No matter how effectively the study is conducted, or the data reviewed and evaluated, the study simply lacks the statistical power to assess health risks to the many sensitive sub-populations and specific recreational uses on the CAWS, such as children and kayakers. As an overall matter, as we have discussed at great length in previous submissions, negative results in any epidemiological study are of extremely limited value for policy making purposes, given the extreme difficulty of pinpointing the source of a health risk among a general population exposed to many sources of illness. As has been accepted by nearly every other major municipality in the country, basic common sense notions of precaution require disinfection of sanitary sewage discharged to waters in populated areas.

Dr. Samuel Dorevich made clear in his prefiled testimony that the technical reports in should not be read as final study conclusions, and the Environmental Groups’ expert Dr. Marc Gorelick fully concurs with that view in his prefiled testimony. However, the fact that the technical reports cannot at this stage support any final study conclusions in no way bears on the fact that those final conclusions – no matter what they are or when they become available – are inherently insufficient to form a basis for declining to require disinfection. The questions of finality and sufficiency of the CHEERS study as a basis for decision are separate.

Certainly, as we have previously discussed at length, the CHEERS study will be useful in any subsequent proceedings concerning the need for in-stream water quality standards for pathogen indicators, as the United States Environmental Protection Agency indicated in its

comment letter filed April 15, 2010 (in Subdocket A) will eventually be necessary. But there is simply no need to spend more time on it in this proceeding. The Board's March 18 order did not grant MWRD's request for hearings concerning the final CHEERS study, and we believe that judgment was appropriate for all of the reasons stated herein. The Board should therefore deny MWRD's renewed motion.

To the extent the Board may choose to allow additional hearings concerning the final CHEERS study, the Environmental Groups request that the Board establish a firm deadline of December 31, 2010 for completion of hearings and submittals in Subdocket B so that the matter can proceed to decision. Given the record-setting time already spent on this proceeding, we believe it is essential to limit any further delay.

Conclusion

For the foregoing reasons, the Board should deny MWRD's request for additional hearings concerning the CHEERS study; or, in the alternative, should set December 31, 2010 as a firm deadline for completion of all proceedings pertaining to this subdocket so that the matter can be submitted to the Board at that time for decision.

Dated: June 28, 2010

Respectfully submitted,

NATURAL RESOURCES DEFENSE COUNCIL

SOUTHEAST ENVIRONMENTAL TASK
FORCE

SIERRA CLUB-ILLINOIS CHAPTER

OPENLANDS

ENVIRONMENTAL LAW & POLICY CENTER

FRIENDS OF THE CHICAGO RIVER
ALLIANCE FOR THE GREAT LAKES

A handwritten signature in blue ink that reads "Ann Alexander". The signature is written in a cursive style.

By: _____

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Authorized to represent the parties listed above for
purposes of this motion