

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
WATER QUALITY STANDARDS AND) R08-9
EFFLUENT LIMITATIONS FOR THE) (Rulemaking - Water)
CHICAGO AREA WATERWAY SYSTEM)
AND THE LOWER DES PLAINES RIVER:) Subdocket C
PROPOSED AMENDMENTS TO 35 Ill.)
Adm. Code Parts 301, 302, 303 and 304)

NOTICE OF FILING

To: ALL COUNSEL OF RECORD
(Service List Attached)

PLEASE TAKE NOTICE that on the 27th day of January, 2012, I, on behalf of the Metropolitan Water Reclamation District of Greater Chicago (the "District"), electronically filed **STATEMENT OF ENVIRONMENTAL GROUPS AND METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO IN REPLY TO RESPONSES TO THE JANAURY 3, 2012 UPDATE STATUS REPORT** with the Office of the Clerk of the Illinois Pollution Control Board.

Dated: January 27, 2012

**METROPOLITAN WATER RECLAMATION
DISTRICT OF GREATER CHICAGO**

By: /s/ Fredric P. Andes
One of Its Attorneys

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PROOF OF SERVICE

The undersigned, a non-attorney, certifies, under penalties of perjury pursuant to 735 ILCS 5/1-109, that I caused a copy of the forgoing, the **STATEMENT OF ENVIRONMENTAL GROUPS AND METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO IN REPLY TO RESPONSES TO THE JANUARY 3, 2012 UPDATE STATUS REPORT**, to be served via First Class Mail, postage paid, from One North Wacker Drive, Chicago, Illinois, on the 27th day of January, 2012, upon the attorneys of record on the attached Service List.

/s/ Barbara E. Szynalik

Barbara E. Szynalik

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The Environmental Groups and MWRD have reached a tentative agreement, which is attached as Exhibit A. It is our understanding that the Illinois Environmental Protection Agency is filing a separate statement that will state its position as to the tentative agreement.

To be clear, there remain a large number of matters that MWRD and the Environmental Groups continue to discuss regarding pending lawsuits in federal court, habitat projects, and permitting matters. Nothing in the attached agreement affects any party's position with respect to MWRD's timetable for completing TARP, the manner of TARP completion or whether additional steps are needed to achieve compliance with new or current DO criteria. Also, of course, nothing herein is intended to affect any party's position in *NRDC v. MWRDGC*, 11-cv-02937 (N.D. Illinois). Also, there are several issues as to which MWRD and the Environmental Groups have not yet reached full agreement as to Subdocket **D**.

Accordingly, we ask that the Board set an appropriate date for Post-Hearing briefs to be filed in Subdocket C.

Respectfully submitted,

METROPOLITAN WATER
RECLAMATION DISTRICT OF
GREATER CHICAGO

By:

/s/ Fredric P. Andes

Fredric P. Andes
Barnes & Thornburg LLP

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ENVIRONMENTAL LAW AND POLICY
CENTER

OPENLANDS

SIERRA CLUB—ILLINOIS CHAPTER

PRAIRIE RIVERS NETWORK

FRIENDS OF THE CHICAGO RIVER

ALLIANCE FOR THE GREAT LAKES

By:

/s/ Albert Ettinger

Albert Ettinger

Authorized to represent all of the above
parties with regard to this document

Exhibit A

- 1. MWRD and the Environmental Groups agree that the record before the Board supports an aquatic life use 'B' designation for the Chicago Sanitary and Ship Canal.*
- 2. MWRD and the Environmental Groups agree that the record supports an aquatic life use 'A' designation for all portions of the CAWS other than the Chicago Sanitary and Ship Canal and Bubbly Creek.*
- 3. MWRD and the Environmental Groups agree to propose to the IPCB that it create a separate docket or subdocket for Bubbly Creek and not take action in that docket or subdocket before the report being prepared by the U.S. Army Corps regarding Bubbly Creek is issued.*
- 4. MWRD will withdraw its proposal for a wet-weather aquatic life use designation.*
- 5. The Environmental Groups agree that a 5 year variance allowing MWRD to work towards compliance with the proposed DO criteria is appropriate for the CAWS while MWRD works to complete TARP, installs green infrastructure and takes other steps that will reduce pollutant loadings to the CAWS, and that an additional variance at the conclusion of the initial variance may be appropriate with variance terms and requirements to be addressed at such time.*
- 6. Existing SEPA stations 3, 4 and 5 will be operated during the months of April through October, except during occurrences of short-term equipment failure, weed control problems, mechanical problems and replacement of equipment for preventive maintenance purposes. Operation of those stations will not be required during any particular time period if it is not needed in order for the CAWS to meet the DO water quality standards.*
- 7. The Environmental Groups agree that the record supports the MWRD's proposed standards changes for zinc.*
- 8. The Environmental Groups and MWRD agree that the DO criteria proposed by IEPA are appropriate to protect to the 'A' and 'B' uses for which they are proposed.*