

ILLINOIS POLLUTION CONTROL BOARD

June 7, 2012

|                                |   |                                |
|--------------------------------|---|--------------------------------|
| FLAGG CREEK WATER RECLAMATION  | ) |                                |
| DISTRICT,                      | ) |                                |
|                                | ) |                                |
| Complainant,                   | ) |                                |
|                                | ) |                                |
| v.                             | ) | PCB 06-141                     |
|                                | ) | (Citizens Enforcement – Water) |
| VILLAGE OF HINSDALE,           | ) |                                |
| METROPOLITAN WATER RECLAMATION | ) |                                |
| DISTRICT OF GREATER CHICAGO,   | ) |                                |
| ILLINOIS DEPARTMENT OF         | ) |                                |
| TRANSPORTATION, and            | ) |                                |
| DUPAGE COUNTY,                 | ) |                                |
|                                | ) |                                |
| Respondents.                   | ) |                                |

ORDER OF THE BOARD (by T.A. Holbrook):

On March 3, 2006, the Flagg Creek Water Reclamation District (FCWRD) filed a four-count citizen's water pollution complaint against the Village of Hinsdale, the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC), the Illinois Department of Transportation (IDOT), and DuPage County (collectively, respondents). *See* 415 ILCS 5/31(d) (2010); and 35 Ill. Adm. Code 103.204. FCWRD alleged that the respondents execute their statutory duties in a manner that contributes excess flow to FCWRD during times of rainfall. FCWRD further alleges that these overflows prevent it from complying with various terms and conditions to which it is subject. In an order dated March 4, 2010, the Board granted FCWRD's unopposed motion to dismiss MWRDGC from this action.

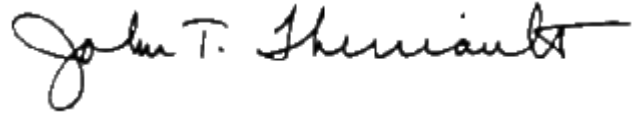
On March 30, 2012, FCWRD filed a motion to voluntarily dismiss IDOT (Mot.). In the motion, FCWRD states that, after discovery and negotiations, it "now believes, contrary to its original understanding, that IDOT only contributes a very small portion of the total wet weather flow" into FCWRD's facility. Mot. at 3. Additionally, IDOT has installed "flow restrictors" to alleviate the problem of excess flow to FCWRD's facility. *Id.* FCWRD therefore moves the Board to dismiss IDOT. *Id.*

Section 100.500(d) of the Board's procedural rules provides in pertinent part that, "[w]ithin 14 days after service of a motion, a party may file a response to the motion. If no response is filed, the party will be deemed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion." 35 Ill. Adm. Code 101.500(d). No party has filed a response to the FCWRD's motion to dismiss IDOT. Having reviewed the substance of FCWRD's motion and in the absence of a response to it, the Board grants the motion and dismisses only IDOT from this action.

IT IS SO ORDERED.

Member Zalewski Abstained

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 7, 2012, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is fluid and cursive, with a long horizontal stroke at the end.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board