

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

VILLAGE OF HOMEWOOD,)
HOMewood ILLINOIS, VILLAGE OF,)
ORLAND PARK, ORLAND PARK ILLINOIS,)
VILLAGE OF MIDLOTHIAN, MIDLOTHIAN,	) PCB 16-14 (Homewood)
ILLINOIS, VILLAGE OF TINLEY PARK, TINLEY,	) PCB 16-15 Orland Park)
PARK ILLINOIS, EXXONMOBIL OIL CORPORATION,	) PCB 16-16 (Midlothian)
VILLAGE OF WILMETTE, CITY OF COUNTRY CLUB,	) PCB 16-17 (Tinley Park)
HILLS, COUNTRY CLUB HILLS ILLINOIS,	) PCB 16-18 (ExxonMobil)
NORAMCO-CHICAGO, INC., FLINT HILLS RESOURCES,	) PCB 16-20 (Wilmette)
JOLIET, LLC, CITY OF EVANSTON, VILLAGE OF SKOKIE,	) PCB 16-21 (Country Club)
ILLINOIS DEPARTMENT OF TRANSPORTATION,	) PCB 16-22 (Noramco)
METROPOLITAN WATER RECLAMATION DISTRICT,	) PCB 16-23 (Flint Hills)
OF GREATER CHICAGO, VILLAGE OF RICHTON PARK,	) PCB 16-25 Evanston)
VILLAGE OF LINCOLNWOOD, and CITY OF OAK FOREST,	) PCB 16-26 (Skokie)
OAK FOREST ILLINOIS,	) PCB 16-27 (IDOT)
	) PCB 16-29 (MWRDGC)
Petitioners,	) PCB 16-30 (Richton Park)
	) PCB 16-31 (Lincolnwood)
	) PCB 16-33 (Oak Forest)
	) (Time-Limited Water
	) Quality Standard)
	) (Consolidated)
)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Respondent.)

NOTICE OF FILING

To: Don Brown, Board Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
Via Electronic Mail

Brad Halloran, Hearing Officer
Illinois Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

See Attached Service List

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board electronically a MOTION TO CONSOLIDATE for the Illinois Environmental Protection Agency, a copy of which is herewith served upon you electronically.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Stefanie Diers
Stefanie Diers
Assistant Counsel
Division of Legal Counsel

DATED: July 12, 2018
1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MOTION TO CONSOLIDATE

The Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), by and through its attorney, hereby submits its Motion to Consolidate. In support thereof, the Illinois EPA states as follows:

1. Between July 20, 2015, and July 22, 2015, sixteen individual petitioners filed variance petitions from the chloride water quality standards adopted by the Board in R08-09.

See In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area

Waterway System and Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304, R08-9(D) at 29 (Jun. 18, 2015). These petitions were docketed as: PCB 16-14 (Homewood), PCB 16-15 (Orland Park), PCB 16-16 (Midlothian), PCB 16-17 (Tinley Park), PCB 16-18 (ExxonMobil), PCB 16-20 (Wilmette), PCB 16-21 (Country Club Hills), PCB 16-22 (Noramco-Chicago), PCB 16-23 (Flint Hill Resources), PCB 16-25 (Evanston), PCB 16-26 (Skokie), PCB 16-27 (IDOT), PCB 16-29 (MWRDGC), PCB 16-30 (Richton Park), PCB 16-31 (Lincolnwood), and PCB 16-33 (Oak Forest).

2. On December 17, 2015, the Board granted the Agency's Motion to Consolidate for hearing purposes the sixteen variance petitions, yet still retained sixteen separate docket numbers.

3. By the enactment of Public Act 99-937 on February 24, 2017, these variance petitions became petitions for time-limited water quality standards (TLWQS).

4. Since the filing of the petitions, the Board adopted procedural rules to address time-limited water quality standards. *See In the Matter of: Regulatory Relief Mechanisms: Proposed New 35 Ill. Adm. Code Part 104, Subpart E (April 26, 2018)*. Section 104.520, Board Note 1, encourages persons addressing the same pollutants in the same water body, waterbody segment or watershed to join in filing a joint petition whenever possible, collectively making a demonstration. See 35 Ill. Adm. Code 104.520. Board Note 1.

5. On April 12, 2017 and June 8, 2017, the Board issued orders concerning how these petitions would be addressed under the new Board rules for a watershed TLWQS.

6. The Agency anticipates that some (if not all) of the 16 petitioners will work collaboratively in a chlorides TLWQS proceeding before the Board. In addition, the Agency expects that other parties will file petitions seeking coverage under the TLWQS. The Agency

expects petitioners will file one joint submittal and also provide the Board with individual forms that provide information specific to their facility and class. Therefore, the Agency believes the Board should open a new docket, with a single docket number, to allow for the petitioners to file a single chloride TLWQS petition. This would allow for more efficient filings, hearings and provide an easier mechanism for future participants, who wish to participate in the chlorides TLWQS, to join the ongoing proceedings. *See* 35 Ill. Adm. Code Section 104.520, Board Note 1.

7. Pursuant to Section 104.520, Board Note 1, the Board may consolidate the petitions pursuant to Section 101.406 of the Board Procedural Rules. Section 104.406 provides:

Consolidation of Claims

The Board, upon the motion of any party or upon its own motion, may consolidate two or more proceedings for hearing or decision or both. The Board will consolidate the proceedings if consolidation is in the interest of convenient, expeditious, and complete determination of claims, and if consolidation would not cause material prejudice to any party. The Board will not consolidate proceedings where the burdens of proof vary.

8. Consolidation of the multiple TLWQS petitions under one docket number would be in the interest of convenient, expeditious, and complete determination of TLWQS petitions for chlorides.

9. All of the existing petitions for a chloride TLWQS request relief from the newly-adopted chloride water quality standards in the Chicago Area Waterways System and the Lower Des Plaines River. The Agency expects that newly filed petitions will request that same relief. Petitioners (including both the existing petitioners and the new parties that are expected to file petitions) all discharge into waterways that are part of the same regional watershed. Furthermore, the Agency believes that the primary potential cause of chloride standard exceedances in receiving waters is the same – road salt related

to deicing. Moving forward with separate docket numbers would result in duplicative efforts, both by Illinois EPA and petitioners and would require enormous Board resources. Each petitioner's request may be adequately managed by the Board in a single chlorides TLWQS docket.

10. The Board should direct all parties that seek to be covered by the watershed chlorides TLWQS to file an appearance in any newly opened docket. All individual chlorides TLWQS petitions should be made part of that new docket by the Board. All deadlines established by the Board in its April 12, 2017, order remain applicable in the new docket.

11. In conjunction with the filing of a single joint submittal, all parties to the newly opened Board docket seeking to be covered by the chlorides TLWQS should individually file forms containing any necessary party-specific information, and may refer therein to the joint submittal.

12. Consolidation pursuant to this motion will not cause material prejudice to any party.

13. Each of the current petitioners and participants have been contacted concerning this Motion. All have indicated they support or do not oppose said Motion. It should be noted the Agency did not receive a response from Noramco-Chicago, Inc.

WHEREFORE, the Illinois EPA respectfully requests the Illinois Pollution Control Board grant its Motion to Consolidate. The Board should open a new docket, directing any parties who seek to be covered by the watershed chlorides TLWQS to file individual appearances and an individual form that references the joint submittal that is also being filed for a chloride TLWQS.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Stefanie Diers
Stefanie Diers
Assistant Counsel
Division of Legal Counsel

DATED: July 12, 2018

1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served the attached the MOTION TO CONSOLIDATE for the Illinois Environmental Protection Agency upon the person to whom it is directed, by sending it electronic email to the following persons:

Don Brown, Board Clerk
Brad Halloran, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

See Attached Service List

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Stefanie Diers
Stefanie Diers
Assistant Counsel
Division of Legal Counsel

DATED: July 12, 2018

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