

ILLINOIS POLLUTION CONTROL BOARD  
May 9, 2019

IN THE MATTER OF: )  
)  
PROPOSED NEW 35 ILL. ADM. CODE 204, ) R19-1  
PREVENTION OF SIGNIFICANT ) (Rulemaking - Air)  
DETERIORATION, AMENDMENTS TO 35 )  
ILL. ADM. CODE PARTS 101, 105, 203, 211, )  
and 215. )

**HEARING OFFICER ORDER**

On February 26, 2019, the Board held the second hearing in this proceeding. This order summarizes post-hearing filings and addresses motions filed by the participants.

**February 26 Transcript Corrections**

The February 26 hearing transcript (2/26/19 Tr.) was filed on the record on March 5, 2019. It is available online in the docket. On March 14, 2019, the Illinois Environmental Protection Agency (IEPA) filed a motion to correct the transcript (IEPA Mot.). The motion is granted, and the participants are instructed to read the transcript with the IEPA's corrections. *See* IEPA Mot. at 1-3. I also note that the transcript misspells Board Chairman's Katie Papadimitriu's surname on page 2 (2/26/19 Tr. at 2:3).

**February 26 Hearing Exhibits**

During the hearing, the hearing officer admitted into the record as Exhibits 6 and 7, respectively, the Citizens Against Ruining the Environment's (CARE) and the Illinois Environmental Regulatory Group's (IERG) pre-filed questions for the February 26 hearing, which were electronically filed in the docket on February 15, 2019. *See* 2/26/19 Exhibits List; 2/26/19 Tr. at 8-9.

During the hearing, CARE also presented two documents that concern CARE's pre-filed questions 5, 6, and 9. The hearing officer noted, however, that because the hearing is held by a videoconference, all documents that CARE intended to use as exhibits during the hearing must have been filed electronically at least 24 hours before the hearing. Accordingly, the hearing officer suggested that CARE file them after the hearing. 2/16/19 Tr. at 10-12. IEPA's attorney, Ms. Carter, noted that IEPA will answer CARE's questions with respect to these documents in post-hearing comments. 2/26/19 Tr. at 11, 36.

On February 26, 2019, CARE filed a motion (CARE Mot.) to admit CARE's Exhibits A, B, and C into the record as evidence, noting that these documents meet requirements of Section 101.625 of the Board rules (36 Ill. Adm. Code 101.626) to be material, relevant, and to be relied upon by prudent person in conduct of serious affairs. CARE Mot. at 1. The Board received no objections. CARE's motion, however, is unnecessary. Board rules require that any document that is not filed within 24 hours before the scheduled start of the videoconference will not be allowed at the hearing but can be filed after the hearing as public comment. 35 Ill. Adm. Code 102.424(h). All written submissions filed with the Clerk as public comments before or after the close of the hearing

constitute part of the record. 35 Ill. Adm. Code 102.418. CARE's motion is thus construed as a public comment (PC 6), with the proposed exhibits to be cited as PC 6 Exhibits A, B, and C, respectively.

### **Post-Hearing Filings**

On February 28, 2019, the hearing officer order set April 5, 2019, as the deadline for the post-hearing comments, and April 19, 2019 as the deadline for reply comments.

On April 4, 2019, the Board received IEPA's post-hearing comments (PC 2). On April 5, 2019, CARE filed post-hearing comments (PC 3) and on April 19, 2019, also filed reply comments (PC 4). On May 2, 2019, IEPA filed a motion for leave to file reply to CARE's reply comments (IEPA Mot. Repl.) accompanied by the IEPA's reply (PC 5). IEPA noted that it would be materially prejudiced if the Board finds that IEPA can consider environmental justice concerns during the Prevention of Significant Deterioration permit applications as suggested by CARE's reply comments. IEPA Mot. Repl. at 2. IEPA also notes that granting the motion will ensure that this legal issue is appropriately before the Board. To ensure a complete record, the motion is granted. To afford equal opportunities to all participants, any other participants are invited to file their reply comments on this specific issue by May 17, 2019.

IT IS SO ORDERED.



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