

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

PUBLIC HEARING

IMPAIRED WATERS OF ILLINOIS DRAFT 2012 INTEGRATED REPORT

April 16, 2012 10:30 a.m.

Before Hearing Officer DEAN STUDER

Illinois EPA

1021 North Grand Avenue East

P.O. Box 19276

Springfield, IL 62794-9276

EPA PANEL :

Mr. Dave Muir

Ms. Amy Walkenbach

Mr. Roy Smogor

Ms. Teri Holland

Mr. Tom Hornshaw

Mr. Rick Cobb

1 MR. STUDER : We're going to go ahead and go on the  
2 record. Good morning. My name is Dean Studer, and I am the Hearing  
3 Officer for the Illinois Environmental Protection Agency. On behalf of  
4 Interim Director John Kim and the Bureau hosting this hearing and that  
5 would be the Bureau Chief, that's the Bureau of Water that's hosting it,  
6 and the Bureau Chief is Marcia Willhite, I welcome you to this  
7 informational hearing.

8 The purpose of the hearing is to provide an opportunity  
9 for the public to comment on the Draft 2012 Integrated Report. This  
10 hearing is being conducted pursuant to 35 Illinois Administrative Code  
11 Part 164, Procedures for Informational and Quasi-Legislative Public  
12 Hearings. Copies of these regulations are available at the website for  
13 the Illinois Pollution Control Board at [www.ipcb.state.il.us](http://www.ipcb.state.il.us), or if you do  
14 not have ready access to the web; they are available from me upon  
15 request.

16 Let me explain how we are going to proceed this  
17 morning. I'll finish reading this opening statement into the record. This  
18 will be followed by a brief presentation from Amy Walkenbach,  
19 Manager of the Watershed Management Section, who will provide  
20 some information on the Draft 2012 Integrated Report and will ask the  
21 panel members to introduce themselves. After the presentations are  
22 concluded, the public will be allowed to make comments on the record.

23 Comments given today do not have to be in writing, but  
24 after today's hearing, comments must be in writing. Comments may be  
25 submitted in hard copy by regular mail or you can also submit them by

1 e-mail. E-mail comments should be sent to  
2 publichearingcom@illinois.gov. E-mail comments are sorted  
3 electronically and; therefore, it is critical that the words "Integrated  
4 Report 2012" appear in the subject line of the e-mail. Illinois EPA cannot  
5 assure that e-mails not conforming to this protocol will be included in  
6 the record in this proceeding. E-mail comments will be received up  
7 through midnight at the close of the comment period, which is on May  
8 17th, 2012. When e-mail comments are properly submitted, you should  
9 get an automated response indicating that your comments have been  
10 received and will be considered by the Illinois EPA. If you do not get this  
11 response, you have either submitted it after the record has closed or  
12 you did not follow the appropriate protocol.

13                   Regular mail comments must be postmarked no later  
14 than that date, which is again May 17th, 2012, and they should be  
15 addressed to Hearing Officer Dean Studer, Mail Code #5, Re: Integrated  
16 Report 2012, Illinois Environmental Protection Agency, 1021 North  
17 Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276.  
18 This information is also provided on the Public Hearing Notice.

19                   After the record closes in this matter, which again is  
20 May 17th, 2012, we will formulate a responsiveness summary and make  
21 that available. In the responsiveness summary, Illinois EPA staff will  
22 attempt to answer all significant and relevant questions raised in this  
23 hearing or submitted prior to the close of the comment period. The  
24 responsiveness summary and the hearing transcript will be posted on  
25 the Illinois EPA's website.

1                   Any person who wishes to make oral comments today  
2 may do so as long as the comments are relevant to the issues, which are  
3 being addressed at this hearing. Please indicate that you wish to  
4 comment on your registration card and persons will be called to make  
5 comments in the order in which they have completed the registration  
6 cards. If you want to make oral comments but have a time constraint,  
7 please let Carol Fuller, who is standing up here, know and we will try to  
8 call on you earlier rather than later in the proceeding. If anyone has  
9 other exhibits that they want to present into the record, you need to  
10 give me a copy and, if possible, have a copy available for the court  
11 reporter. I will enter them into the record.

12                   Persons making comments will initially be limited to [5]  
13 minutes until everyone who wishes to speak has had a chance to do so.  
14 If you have lengthy comments to make, please submit them to me in  
15 writing before the close of the comment period, and I will make sure  
16 that they are included in the record as exhibits. Persons making  
17 comments should first state their name and, if applicable, identify any  
18 governmental body, organization or association that they represent. If  
19 you are not representing a governmental body, organization, or  
20 association, you can state that you are an interested citizen. Issues  
21 raised should be relevant to the subject presented and not repetitious.  
22 Amy will talk a little bit about topics that are not relevant to this  
23 proceeding, but let me indicate that we will not be addressing specific  
24 TMDL questions or questions regarding specific NPDES permits in this  
25 proceeding. Topics relevant to this proceeding primarily involve the

1 quality of surface waters and groundwater issues involved in the  
2 evaluation and consideration of placing those waters on the lists of  
3 impaired waters, otherwise known as the 303d List.

4 Arguing or prolonged dialogue with any speaker will not  
5 be allowed, and because a verbatim record of this hearing is being  
6 made, I ask that you keep conversation and noise levels to a minimum  
7 so that we can get a proper transcription of this proceeding.

8 Before we begin, let me mention the exhibits that are  
9 included in the record so far. Exhibit 1 is the Notice of Public Hearing  
10 and Exhibit 2 is the Draft 2012 Integrated Report, as it is available on the  
11 Illinois EPA website. Let me stress that Illinois EPA will attempt to  
12 include in the record all e-mails that have been submitted to us;  
13 however, I do ask that e-mails be submitted to  
14 publichearingcom@illinois.gov. It's very difficult to include other e-  
15 mails when they are submitted to addresses other than that. Also make  
16 sure that all e-mails have the words "Integrated Report 2012" in the  
17 subject line. All e-mails sent to public hearing comment during the  
18 comment period will be included in the official hearing record.

19 I will now turn things over to Amy Walkenbach from the  
20 Watershed Management Section and we'll begin the presentation.

21 MS . WALKENBACH : Welcome to this hearing on the  
22 Illinois 2012 Draft Integrated Report on the conditions of waters in  
23 Illinois. We call it an integrated report because it includes both the  
24 report on the condition of Illinois lakes, rivers and streams, as required  
25 by Section 305(b) of the Federal Clean Water Act and a list of impaired

1 waters as required by Section 303(d) of the Federal Clean Water Act.  
2 Among the responsibilities of the Watershed Management Section are  
3 the publication of Section 303(d) lists and development of Total  
4 Maximum Daily Loads, also known as TMDLs. This morning I will briefly  
5 discuss the process the Agency used to develop the Integrated Report  
6 and the 303(d) lists for 2012.

7                   In order to comply with the provisions of Section 303(d)  
8 of the Federal Clean Water Act, it states, and I am quoting "Identify  
9 those waters within its boundaries for which the effluent limitations  
10 required by Section 301(b)(1)(A) and Section 301(b)(1)(B) of the Federal  
11 Clean Water Act are not stringent enough to implement any water  
12 quality standards applicable to such waters. The state shall establish a  
13 priority ranking for such waters taking into account the severity of the  
14 pollution and the designated uses of such waters." No longer quoting.  
15 States are to submit this list of waters, commonly referred to as the  
16 303(d) List, to the Administrator of USEPA for approval.

17                   The purpose of this hearing is to provide an opportunity  
18 for the public to comment on the proposed list of impaired waters  
19 published in the Draft 2012 Integrated Report.

20                   In order to keep the public apprised of the integrated  
21 report, we've distributed Notices of the Public Hearing and placed a  
22 Public Notice and a copy of the report on the Agency's website. The  
23 Agency also placed a notice of today's hearing in the designated  
24 newspaper for statewide notices, in this case the Taylorville Breeze  
25 Courier.

1                   The Agency is interested in your comments on the Draft  
2 2012 Integrated Report. However, this hearing is not about individual  
3 TMDLs that the Agency has conducted or may be in the process of  
4 conducting at this time.

5                   The public meetings for ongoing TMDLs and for those  
6 the Agency develops in the future will continue apart from the hearing  
7 today and final adoption of the 2012 Integrated Report.

8                   Since water resource data take time to gather and  
9 process, each assessment cycle reflects up to a two-year data lag.  
10 Generally, the 2012 Integrated Report is based on information that  
11 became available through 2010. Surface water assessments in this 2012  
12 report are based primarily on biological, water chemistry, sediment,  
13 physical habitat and fish tissue information collected through 2010.

14                   These programs include ambient water quality  
15 monitoring network, intensive basin surveys, facility-related stream  
16 surveys, the ambient lake monitoring program, the volunteer lake  
17 monitoring program, and the Lake Michigan monitoring program, all  
18 Illinois EPA monitoring programs. As well as, data submitted from  
19 outside sources that met minimum data requirements.

20                   The Agency uses the U.S. Geological Survey's National  
21 Hydrography Dataset (NHD) as the basis for mapping streams in the  
22 state. For those of you not aware of the ramifications of the Integrated  
23 Report, let me explain that water bodies identified as impaired, for at  
24 least one designated use, are identified as such for specific individual or  
25 multiple chemical, physical and biological reasons. When water body

1 impairment is determined, associated pollutant causes of impairment  
2 that exceeds water quality standards or other thresholds are identified.  
3 TMDLs must be developed for waters that are impaired by pollutants.  
4 Based on the results of the TMDL, load restrictions may be applied to  
5 point source discharges.

6 TMDLs in Illinois, generally, take the form of a  
7 watershed study in which the chemical constituent causing impairment  
8 is evaluated. At this time, over 67 watershed-based TMDLs have been  
9 approved by USEPA for Illinois that addresses 529 segment  
10 impairments. Approximately, 12 more watershed-based TMDLs are in  
11 some stage of development. When completed, these TMDLs will have  
12 addressed well over 276 segment impairments. Additional information  
13 is available on the Agency website for each TMDL conducted and for  
14 those in development.

15 The 2010 Integrated Report and Section 303(d) List was  
16 published by the Illinois EPA in early 2010, and following a public review  
17 of the draft including a hearing and development of the Agency's  
18 response to public comments, the final version of the report and List  
19 were submitted to USEPA Region 5 in Chicago on December 23, 2011.  
20 As of today USEPA Region 5 has not approved the 2010 Integrated  
21 Report. Since the submittal of the 2008 Integrated Report, Illinois EPA  
22 and USEPA have had continual dialog concerning our listing processes.  
23 Because of these discussions, there are several changes in the 2012  
24 Assessment and Listing Methodologies. Briefly, these changes are:

- 1 • Illinois will no longer apply the narrative  
2 standard in 35 Illinois Administrative Code  
3 302.203 and 302.515, "Offensive Conditions," to  
4 assessments of aquatic life use because of  
5 revisions, which were made to these standards  
6 by the Illinois Pollution Control Board in 1990  
7 and 1997. We have determined that these  
8 narrative standards apply only to the protection  
9 of aesthetic quality use in Illinois waters.  
10 However, previously listed as causes of aquatic  
11 life use impairment, which were based on these  
12 Narrative Standards, will not be removed from  
13 the Illinois' 303(d) List unless aquatic life use is  
14 determined to be fully supported.
- 15 • For the 2012 assessment cycle, we will begin  
16 assessing aesthetic quality use for all general  
17 use and Lake Michigan waters, including  
18 streams, Lake Michigan open waters and Lake  
19 Michigan beaches. Illinois has previously  
20 assessed aesthetic quality use only in inland  
21 lakes.
- 22 • Illinois will no longer use non-standard based  
23 guidelines to list sedimentation/siltation as a  
24 cause of aquatic life use impairment.

- 1 No previous listings of sedimentation/siltation  
2 will be removed from Illinois' 2012 303(d) List  
3 unless aquatic life use is determined to be fully  
4 supported.
- 5 • In the absence of any water quality standards  
6 for sediment, Illinois will no longer use  
7 sediment chemistry guidelines for listing causes  
8 of aquatic life use impairment in streams.  
9 None of the previous listings will be removed  
10 from the Illinois' 2012 303(d) List unless aquatic  
11 life use is determined to be fully supported.
  - 12 • Illinois will no longer use non-standard based  
13 guidelines to list total phosphorous as a cause  
14 of aquatic life use impairment in streams.  
15 None of the previous listings will be removed  
16 from Illinois' 2012 303(d) lists unless aquatic life  
17 use is determined to be fully supported.
  - 18 • Because Illinois' General Use standard for total  
19 phosphorus only applies to lakes larger than 20  
20 acres, Illinois will no longer use the total  
21 phosphorus standard to list total phosphorus as  
22 a cause of aquatic life use or aesthetic quality  
23 use impairment in lakes less than 20 acres in  
24 size.

- 1                   None of the previous listings will be removed  
2                   from Illinois' 2012 303(d) List unless aquatic life  
3                   use or aesthetic quality use is determined to be  
4                   fully supported.
- 5                   •       Illinois will no longer use any non-standards  
6                   based guidelines to list total phosphorus as a  
7                   cause of aquatic life use impairment in Lake  
8                   Michigan.
  - 9                   •       For 2012 303(d) lists: sludge, bottom deposits,  
10                  floating debris, visible oil, odor, aquatic plants,  
11                  aquatic algae, color or turbidity will only be  
12                  listed as causes related to impairment of  
13                  aesthetic quality use, and only when their  
14                  presence is considered a violation of the  
15                  narrative standard in 35 Illinois Administrative  
16                  Code 302.203 or 302.515. Also, in streams,  
17                  Lake Michigan and lakes less than 20 acres,  
18                  when aesthetic quality use is impaired due to  
19                  non-attainment of the narrative standard from  
20                  plant or algal growth, "total phosphorus" will be  
21                  listed as a contributing pollutant of impairment.
  - 22                  •       And, for the 2012 cycle, Illinois will reclassify  
23                  dissolved oxygen as a pollutant and place  
24                  dissolved oxygen back on the 303(d) List, where  
25                  appropriate.

1                   This concludes my prepared statement, and prior to  
2 turning the meeting back to the Hearing Officer, I'd like to introduce  
3 some staff that are here today to help answer questions that you may  
4 have:

5                   Dave Muir, Watershed Management Section — general  
6 Integrated Report questions.

7                   Roy Smogor, Surface Water Monitoring Section —  
8 stream questions.

9                   Teri Holland, Surface Water Monitoring Section — lakes'  
10 questions.

11                  And, Tom Hornshaw, - fish consumption advisory  
12 questions.

13                  And lastly, Rick Cobb — ground water questions.

14                  With that, thank you for your patience.

15                  MR. STUDER : For the record, Rick's last name is  
16 spelled C-o-b-b. For those who haven't noticed, which is probably  
17 nobody in the room, if you have a microphone on the table, I want to  
18 explain to you the limitations with that. Basically, that is a directional  
19 mic, which means if you are on the back side of it what you say is not  
20 going to be picked up. Therefore, when you are going to speak, if  
21 you've got a question, I'm going to ask that you raise your hand, and I  
22 will recognize you so that we will have time to turn the mic toward you  
23 before you speak. That also goes for agency staff that are going to  
24 respond to any of the comments or questions that are raised this

1 morning. Are there any questions this morning on how we'll proceed  
2 before I go ahead and open it up for questions and comments?

3 MR. NORMAN : Didn't you state that it will be part of  
4 the record available sometime...?

5 MR. STUDER : That is correct. We will have a  
6 transcript posted on the website, which will list the transcription of this  
7 proceeding so that will be in the transcript.

8 MR. NORMAN : Thank you.

9 MR. STUDER : Yes. For the record, that was Jack  
10 Norman that had asked that question. Okay, are there questions or  
11 comments on the Draft 2012 Integrated Reports? Going once, going  
12 twice. Okay, this will be our shortest Integrated Report hearing in the  
13 history of these hearings. I point out that if you do have comments, you  
14 are free to submit those to us in writing. The comment period is open  
15 through April 17th, and again the Draft report is available on the Illinois  
16 EPA website.

17 MS. FULLER : May 17th.

18 MR. STUDER : I'm sorry it's May 17th, 2012. Thank  
19 you, Carol. This hearing is adjourned.

20

21

22

23

24

25