

RESOLUTION NO. _____

**A RESOLUTION IN SUPPORT OF THE CITY OF CREST HILL'S LAKE MICHIGAN
WATER ALLOCATION APPLICATION BEFORE THE ILLINOIS DEPARTMENT OF
NATURAL RESOURCES
(LMO-22-02)**

WHEREAS, the Corporate Authorities of the City of Crest Hill, Will County, Illinois, have the authority to adopt resolutions and to promulgate rules and regulations that pertain to the City's government and affairs and protect the public health, safety, and welfare of its citizens; and

WHEREAS, the City of Crest Hill (the "City") provides potable water service through its water system to its water customers ("Water Service"); and

WHEREAS, the Regional Water Commissions Act, codified in 65 ILCS 5/11-135.5-1 *et seq.* ("RWC Act"), went into effect on December 16, 2021, authorizing two or more municipalities, at least one of which is located in whole or in part in the County of Cook, Kane, Kendall, Lake, McHenry or Will and has 140,000 or more inhabitants, to acquire, either by purchase or construction, a waterworks system or a common source of supply or water, or both, and to operate jointly and improve and extend a waterworks system or a common source of supply of water; and

WHEREAS, on January 17, 2022, the City adopted Resolution No. 1134, approving a "Preliminary Agreement Regarding Formation of a Regional Water Commission" ("Preliminary Agreement") between the City and the Village of Channahon, the City of Joliet, the Village of Minooka, the Village of Romeoville, and the Village of Shorewood (together with the City, the "Parties") in order to establish a framework for moving forward with a joint effort to establish a regional water commission ("Regional Water Commission") to facilitate the joint acquisition and operation of a waterworks system and common source of water supply; and

WHEREAS, the City and the Parties to the Preliminary Agreement have agreed on certain key principles and terms for the formation of a new Regional Water Commission, which are included in the Preliminary Agreement; and

WHEREAS, the Parties have been in continuing discussions with each other over the detailed terms in the an Intergovernmental Agreement ("IGA") and complying with prerequisites to approving the IGA and ordinance, including obtaining Lake Michigan water allocation permits as required by Section 3.8 of the Preliminary Agreement; and

WHEREAS, on or about March 25, 2022, the City applied to the Illinois Department of Natural Resources ("IDNR") for a Lake Michigan water allocation permit, as required by the Preliminary Agreement and as required by Section 5 of the Level of Lake Michigan Act (615 ILCS 50/5) and regulations promulgated thereunder; and

WHEREAS, on or about November 9, 2022, the City appeared for and participated in a prehearing conference with IDNR staff ("Prehearing") concerning the City's application for a Lake Michigan Water Allocation Permit ("Application"); and

WHEREAS, during the Prehearing, IDNR staff provided the City with comments, concerns, and feedback concerning the Application ("IDNR Comments"), for consideration by the City in connection with the City's potential revisions to and resubmittal of the Application; and

WHEREAS, among other matters, the IDNR Comments on the Application indicated that IDNR staff desired further confirmation of the City's efforts to inform the residents and elected

officials of the City of the significant costs associated with the Application, the costs of various available alternative sources of water available to the City, and specifically those costs uniquely associated with receiving a Lake Michigan water allocation; and

WHEREAS, the IDNR Comments also indicated that IDNR staff also desired further confirmation that the residents and elected officials of the City had been advised of and understood the significant regulatory presence and oversight that IDNR would have over the water system of the City in the event that the City became a Lake Michigan water allocation permittee; and

WHEREAS, in response to the above-noted excerpts from the IDNR Comments, City staff and consultants made an informational presentation (“Presentation”) at the January 30, 2023, work session meeting of the City Council to the residents and elected officials of the City concerning both the costs associated with and unique to the City’s potential future status as a Lake Michigan water allocation permittee, as well as the scope and extent of the regulatory oversight and presence that IDNR would have in the ongoing operation and maintenance of the City’s water system; and

WHEREAS, Strand Associates, Inc. (“Strand”), represented by Mr. Chris Ulm, made a presentation to the residents and elected officials of the City regarding (i) the several potential alternative sources of water available to the City and (ii) Strand’s opinion of possible and probable costs associated with each such source, a summary of which is attached hereto and incorporated by reference herein as Exhibit A; and

WHEREAS, after reviewing and discussing the available alternate water sources and associated opinion of possible and probable costs, Strand noted that when evaluating alternate water source options, the City is obligated, as a public water supply, to obtain raw water from the “best available source that is economically reasonable and technically possible” in accordance with Illinois Environmental Protection Agency (“IEPA”) regulations as set forth in 35 Ill. Adm. Code 604.200(a); and

WHEREAS, Strand further noted that the IEPA (per 35 Ill. Adm. Code 604.200(b)) also requires the City, when selecting a water source, to prove (i) that water source selected will provide an adequate quantity of water and (ii) that the water to be taken from the source and delivered to consumers by the City will satisfy all current requirements with respect to microbiological, physical, chemical and radiological qualities; and

WHEREAS, Strand further noted that the IEPA (per 35 Ill. Adm. Code 652.310) also requires the City, as a public water supply, demonstrate technical capacity by submission of compliance records which include “selection of a source that is economically reasonable, reliable, and adequate in quantity, and technically treatable to meet all proposed and existing State and federal drinking water standards, based upon an evaluation of potential of potable water”; and

WHEREAS, Strand also presented information to the residents and elected officials concerning the types of possible and probable costs that are unique to the City’s potential future status as a Lake Michigan water allocation permittee and which would not be applicable to water sourced from other alternate sources of supply, a summary of which is attached hereto and incorporated herein by reference as Exhibit B, including but not limited to the costs of conducting the annual audit required of Lake Michigan water allocation permittees, the costs of annual leak detection, the costs of annual master meter calibration, the costs of testing and data collection required for IDNR regulatory compliance, the costs of ongoing infrastructure improvements (including but not limited to water main replacement), and the administrative costs associated with water conservation activities (including enforcing water conservation ordinances and engaging in

community outreach in support of water conservation efforts); and

WHEREAS, Strand further noted that the City would need to accept the obligation to incur such costs as an anticipated condition of being issued a Lake Michigan water allocation permit and thereafter actually incur such costs in order to achieve compliance with anticipated conditions expected to be set forth within any issued Lake Michigan water allocation permit and applicable IDNR regulatory requirements necessary to maintaining a Lake Michigan water allocation permit in good standing, including but not limited to the requirement that non-revenue water loss from the City's water system shall not exceed ten percent (10%) of the water entering the water system; and

WHEREAS, Spesia & Taylor, represented by Michael Santschi, presented the residents and elected officials of the City with an overview of the provisions of Subpart C of Part 3730 of title 17 of the Illinois Administrative Code (17 Ill. Adm. Code 3730.301 to 17 Ill. Adm. Code 3730.310), outlining the requirements of Subpart C as they pertain to Lake Michigan water allocation permittees, with particular emphasis on those provisions of Subpart C that establish required water conservation practices, conditions applicable to Lake Michigan water allocation permits, and periodic reporting requirements required of Lake Michigan water allocation permittees; and

WHEREAS, a copy of the provisions of Subpart C of Part 3730 of title 17 of the Illinois Administrative Code (17 Ill. Adm. Code 3730.301 to 17 Ill. Adm. Code 3730.310) is attached hereto and incorporated herein by reference as Exhibit C; and

WHEREAS, Spesia & Taylor also commented that while the provisions of Subpart C as set forth in Exhibit C are in effect as of the date of this Resolution, such provisions may be changed at any time in the future, and may be changed in ways that impose greater costs or compliance burdens on Lake Michigan water allocation permittees; and

WHEREAS, Spesia & Taylor noted that compliance with the requirements of Subpart C and with the conditions anticipated to be contained in any issued Lake Michigan water allocation permit necessarily cedes a significant degree of autonomy over the operation of a permittee's water system to IDNR, in that a Lake Michigan water allocation permittee becomes bound to comply with both the requirements of Subpart C and any the conditions contained in the permittee's Lake Michigan water allocation permit and cannot adopt ordinances or resolutions contrary thereto; and

WHEREAS, after taking into consideration the discussion and material presented during the course of the aforementioned presentation, including all material referred to herein or incorporated herein by reference, the City Council finds: (i) that they have been duly and thoroughly advised of the costs associated with obtaining a supply of Lake Michigan water to the City, as well as of the costs associated with water sourced from other potential alternate sources of supply, including those costs uniquely associated with status as a Lake Michigan allocation permittee that are not applicable to water obtained from alternate sources, (ii) that they have been duly and thoroughly advised of the regulatory and permit compliance requirements and costs thereof associated with status as a Lake Michigan water allocation permittee, including the supervisory and oversight role of IDNR in connection therewith, and (iii) that based upon such discussion and material presented during the course of the presentation, it is in the best interest of the residents of the City for the City to continue to pursue its pending application with IDNR for an allocation of Lake Michigan water as such water constitutes the best source of water available to the residents of the City that is economically reasonable and technically possible.

WHEREAS, the City Council has determined that it is in the best interest of the City and its residents to approve this Resolution in support of its pending application with IDNR for an allocation of Lake Michigan water.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Crest Hill, Illinois, pursuant to its statutory authority, as follows:

SECTION 1: RECITALS. The foregoing recitals are incorporated in and made a part of this resolution as findings of the City Council of the City by this reference.

SECTION 2: SUPPLEMENTING APPLICATION. That the City's pending Application shall hereby be amended by and supplemented with this Resolution, and a copy hereof shall be included in any resubmittal of the same to IDNR, together with such other and further materials as deemed necessary or appropriate by the City's staff and consultants to respond to the IDNR Comments.

SECTION 3: SEVERABILITY. If any section, paragraph, clause, or provision of this Resolution is held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect any other provision of this Resolution.

SECTION 4: REPEALER. All ordinances, resolutions or orders, or parts thereof, which conflict with the provisions of this Resolution, are to the extent of such conflict hereby repealed.

SECTION 5: EFFECTIVE DATE. This Resolution shall be in full force and effect immediately upon its passage and publication according to law.

[Intentionally Blank]

PASSED THIS _____ DAY OF _____, 2023.

	Aye	Nay	Absent	Abstain
Alderman John Vershay	_____	_____	_____	_____
Alderman Scott Dyke	_____	_____	_____	_____
Alderwoman Claudia Gazal	_____	_____	_____	_____
Alderman Darrell Jefferson	_____	_____	_____	_____
Alderperson Tina Oberlin	_____	_____	_____	_____
Alderman Mark Cipiti	_____	_____	_____	_____
Alderman Nate Albert	_____	_____	_____	_____
Alderman Joe Kubal	_____	_____	_____	_____
Mayor Raymond R. Soliman	_____	_____	_____	_____

Christine Vershay-Hall, City Clerk

APPROVED THIS _____ DAY OF _____, 2023.

Raymond R. Soliman, Mayor

ATTEST:

Christine Vershay-Hall, City Clerk

Exhibit A

**(Summary of Alternative Water Source and
Cost Presentation)**

Exhibit B

**(Summary of Unique Lake Michigan
Costs Presentation)**

Exhibit C

(17 Ill. Adm. Code 3730.301, *et seq.*)

17 Ill. Adm. Code 3730.301

This document is current through January 6, 2023

IL - Illinois Administrative Code > TITLE 17. CONSERVATION > CHAPTER I. DEPARTMENT OF NATURAL RESOURCES > SUBCHAPTER h. WATER RESOURCES > PART 3730. ALLOCATION OF WATER FROM LAKE MICHIGAN > SUBPART C. ALLOCATION RULES

§ 3730.301 Allocation Permits

- a)** No regional organization, municipality, political subdivision, agency or instrumentality, or any other organization, association or individual desiring to use water from Lake Michigan that is subject to allocation under the Act shall divert or use any such water after July 1, 1977, unless it has previously obtained from the Department a valid allocation permit.
- b)** The Department shall issue an allocation permit to any applicant it determines to be entitled to an allocation of water from the Lake Michigan diversion according to the criteria set out in this Subpart. The permit shall state the allocation the applicant is allowed, the starting date and duration of the permitted allocation, and such conditions as specified in Sections 3730.307 and 3730.309 as the Department may require the applicant to comply with in order to receive or to continue to receive its allocated share of the Lake Michigan diversion. Allocations for residential, industrial and commercial uses will be limited for each annual accounting period. Allocations for navigational makeup and discretionary dilution will be limited by a running average over five annual accounting periods. The Department will hold an amount of Lake Michigan water in reserve for lockage and leakage that will be based on a running average over 40 annual accounting periods.
- c)** If, over a five-year running period, a permittee appropriates water in amounts greater than 105% of its allocation for that period or if it appropriates in excess of 115% of its allocation in any one annual accounting period, the Department may issue a notice of violation of the allocation permit.
- d)** If a permittee commits a permit violation under subsection (a), (b) or (c) or if it fails to observe the conditions attached to its allocation permit, the Department may issue a notice of violation. Upon hearing and determination of violation, the permittee shall be deemed to have failed to obey an order made by the Department and may be subject to a fine of not less than \$ 1,000 and not more than \$ 10,000 to be recovered in the name of the People of the State of Illinois in any court of

competent jurisdiction. Each day in which the prohibited activity continues shall constitute a new and separate violation of a Department order.

e) If, over a five-year running period, a permittee appropriates water in amounts less than 90% of its allocation for the period, any entity or the Department, on its own motion, may initiate proceedings for a modification according to Sections 3730.204(c) and 3730.310. Any modification shall be preceded by notice as provided in Section 3730.206, and a hearing shall be held in conformance with Subpart B.

f) If a permittee, because of physical limitations, cannot use an allocation, the Department may allocate this water, after notice and a hearing, to another use during an accounting period or hold it in reserve for future use without prejudice to any permittee's allocation in succeeding accounting periods.

History

SOURCE:

Amended at 14 Ill. Reg. 1484, effective January 3, 1990.

Amended at 38 Ill. Reg. 22801, effective November 18, 2014.

Annotations

Research References & Practice Aids

Authority & General Source

ILLINOIS ADMINISTRATIVE CODE

End of Document

17 Ill. Adm. Code 3730.302

This document is current through January 6, 2023

IL - Illinois Administrative Code > TITLE 17. CONSERVATION > CHAPTER I. DEPARTMENT OF NATURAL RESOURCES > SUBCHAPTER h. WATER RESOURCES > PART 3730. ALLOCATION OF WATER FROM LAKE MICHIGAN > SUBPART C. ALLOCATION RULES

§ 3730.302 Application

An application for an allocation permit shall contain the following information, to be filed on forms provided by the Department:

- a)** The name and location of the applicant;
- b)** A description of the geographic area that the applicant supplies or intends to supply with water, and the number of people residing within that area;
- c)** An enumeration of the uses to which the allocation is intended to be put, including the proportion of the allocation that goes to each use;
- d)** A description of all proposed and existing systems for the storage, treatment, transportation and distribution of water and the location of any discharge of wastewater effluent within the area the applicant intends to supply with water from the allocation, including the location, dates of construction, and major improvements of wells;
- e)** A description of all present sources of water supply, within the area described under subsection (b), including a breakdown stating the amounts and quality of water currently available and the quantity prospectively available from each source;
- f)** A statement of anticipated future needs during the period for which application for a water allocation is being made, including projected land use changes and population changes and per capita use;
- g)** A description of the applicant's current and proposed water conservation programs, measures and ordinances that promote the efficient use of its water supply;
- h)** Such other information relevant to the Lake Michigan allocation as the Department deems appropriate.

History

SOURCE:

Amended at 38 Ill. Reg. 22801, effective November 18, 2014.

Annotations

Research References & Practice Aids

Authority & General Source

ILLINOIS ADMINISTRATIVE CODE

End of Document

17 Ill. Adm. Code 3730.303

This document is current through January 6, 2023

IL - Illinois Administrative Code > TITLE 17. CONSERVATION > CHAPTER I. DEPARTMENT OF NATURAL RESOURCES > SUBCHAPTER h. WATER RESOURCES > PART 3730. ALLOCATION OF WATER FROM LAKE MICHIGAN > SUBPART C. ALLOCATION RULES

§ 3730.303 Classification of Water Users

- a) Applicants will be divided into broad categories determined by water use. The categories in order of descending priorities are: Categories IA, IB, IIA, IIB and III.
 - 1) Category IA - Applicants whose primary water needs are residential, commercial or industrial and whose future or continued use of Lake Michigan water is the most economical source of supply.
 - 2) Category IB - Applicants whose primary water demands are residential, commercial and industrial and whose use of Lake Michigan water would reduce the regional use of the deep aquifer.
 - 3) Category IIA - Applicants whose primary water demands are for the minimum flows necessary to meet navigation requirements and minimum discretionary dilution flows necessary to maintain the Chicago Area Waterway System in a reasonably satisfactory sanitary condition.
 - 4) Category IIB - Applicants whose water demands are for the minimum discretionary dilution flows necessary to meet water quality standards in the Chicago Area Waterway System.
 - 5) Category III - Applicants whose water demands do not fall into Category IA, IB, IIA, or IIB.
- b) In determining the need for Category IA and IB allocations, the Department will consider the following items:
 - 1) Adequacy of supply from sources other than Lake Michigan.
 - 2) Economics of alternative supplies.
 - 3) For new applicants, priority will be given to allocations for domestic purposes.
 - 4) For new applicants, allocations of Lake Michigan water will be made with the goal of reducing withdrawals from the Cambrian-Ordovician Aquifer (deep

aquifer).

c) In determining the need for priorities within Categories IIA and IIB, the Department will consider the following items:

- 1) A limitation of 270 cubic feet per second for discretionary dilution for water quality purposes in the Chicago Area Waterway System.
- 2) The need to meet navigation requirements in the Chicago Area Waterway System.
- 3) The minimum discretionary diversion needed to keep water quality in the Chicago Area Waterway System in a reasonable satisfactory sanitary condition.

d) Category III applicants do not qualify for an allocation of water from Lake Michigan.

e) The Department will normally make allocations to meet the full water needs of Category IA and IB applicants as determined by the Department before any water is allocated to applicants in Category IIA and IIB.

f) In determining the amount of water available for allocations to Categories IA, IB, IIA and IIB, the Department will consider the amount of water that must be reserved for storm water runoff, lockage and leakage and a reserve for future increases in demands and storm water runoff.

History

SOURCE:

Amended at 38 Ill. Reg. 22801, effective November 18, 2014.

Annotations

Research References & Practice Aids

Authority & General Source

ILLINOIS ADMINISTRATIVE CODE

End of Document

17 Ill. Adm. Code 3730.304

This document is current through January 6, 2023

IL - Illinois Administrative Code > TITLE 17. CONSERVATION > CHAPTER I. DEPARTMENT OF NATURAL RESOURCES > SUBCHAPTER h. WATER RESOURCES > PART 3730. ALLOCATION OF WATER FROM LAKE MICHIGAN > SUBPART C. ALLOCATION RULES

§ 3730.304 Water Needs Criteria

The Department will determine anticipated water needs for each applicant. The Department will take into consideration in making that determination the population of the area to be served, projected population growth, current and projected per capita consumption within the area, the nature and extent of industrial uses (including a consideration of typical requirements for similar industries), municipal and hydrant uses (public facilities, park upkeep, fire protection), implementation of conservation practices, and the reduction of non-revenue water as required by this Section.

a) Conservation practices that will be considered with respect to applicants in Categories IA and IB include the extent of metering, the provision of building codes for water efficient equipment, ordinances that promote the efficient use of water for lawn sprinkling and other outside uses, rate structures that encourage conservation, past record of enforcement of water saving ordinances, expenditures for maintenance and repair of water distribution systems, and implementation of specific ground water conservation levels of usage recommended by State or regional planning agencies. The Director may establish maximum reasonable per capita consumption rates for each user based upon either an evaluation of the relative proportion of industrial, commercial and residential users served by the permittee or the efficiency of the permittee's water distribution system, or both. Applicants in Categories IA and IB shall limit non-revenue water so that it is less than 12% of net annual pumpage in Water Year 2015, decreasing to no more than 10% by Water Year 2019 and all years thereafter. Applicants whose non-revenue water exceeds the non-revenue thresholds (12% in Water Year 2015, decreasing to 10% in Water Year 2019) shall submit a water system improvement plan that outlines the actions the applicant plans to undertake, along with a timeframe, to reduce non-revenue water to less than the thresholds outlined in this subsection. The Department may grant a waiver to the requirement to submit a water system improvement plan to

an applicant whose non-revenue water exceeds the thresholds if it can be shown that the reason for exceeding the non-revenue water threshold is due to metered, but unbilled, consumption or to authorized, unmetered, unbilled consumption when the quantity can be determined through acceptable engineering practices. The Department will consider this information in determining proper allocation amounts.

b) Conservation practices that will be considered with respect to applicants in Categories IIA and IIB include improved and more accurate measurement and accounting procedures, improved treatment of all wastewater flows, elimination of untreated combined sewer bypass flows, reasonable use of aeration facilities, implementation of navigational and storm response operations, and procedures to minimize Lake Michigan diversion and implementation of effective programs of leak prevention, detection and correction.

History

SOURCE:

Amended at 38 Ill. Reg. 22801, effective November 18, 2014.

Annotations

Research References & Practice Aids

Authority & General Source

ILLINOIS ADMINISTRATIVE CODE

End of Document

17 Ill. Adm. Code 3730.305

This document is current through January 6, 2023

IL - Illinois Administrative Code > TITLE 17. CONSERVATION > CHAPTER I. DEPARTMENT OF NATURAL RESOURCES > SUBCHAPTER h. WATER RESOURCES > PART 3730. ALLOCATION OF WATER FROM LAKE MICHIGAN > SUBPART C. ALLOCATION RULES

§ 3730.305 Emergencies

- a) Upon the occurrence of an unforeseen event and where necessary to safeguard the health, safety, or welfare of the people of the State of Illinois, the Director shall make an emergency allocation of water upon a showing by any user or applicant that:
- 1) A water shortage emergency exists, threatening the public health, safety, or welfare of people whom the user or applicant intends to supply with water; and
 - 2) the user or applicant is making provisions to prevent the continuation or recurrence of such emergency allocations by developing alternative sources of water supply.
- b) The effectiveness of an emergency allocation order shall last until the Department has issued and entered an order after a hearing regarding the emergency allocation is held in accordance with Section 3730.202(d).
- c) All hearings on emergency allocations will be held after notice has been given pursuant to Section 3730.206(a).

History

SOURCE:

Amended at 9 Ill. Reg. 386, effective January 1, 1985.

Annotations

Research References & Practice Aids

Authority & General Source

ILLINOIS ADMINISTRATIVE CODE

End of Document

17 Ill. Adm. Code 3730.306

This document is current through January 6, 2023

IL - Illinois Administrative Code > TITLE 17. CONSERVATION > CHAPTER I. DEPARTMENT OF NATURAL RESOURCES > SUBCHAPTER h. WATER RESOURCES > PART 3730. ALLOCATION OF WATER FROM LAKE MICHIGAN > SUBPART C. ALLOCATION RULES

§ 3730.306 Transfer of Water Use Rights

- a) A user may not transfer any portion of its allocation of Lake Michigan water to another user unless the transferor has satisfied all of the conditions precedent attached to its water allocation permit and the Department has approved the transfer according to the procedures in subsection (b) or (c).
- b) All requests for transfers, except those described in subsection (c), shall be processed as petitions for modification of the allocation permits of the transferor and the transferee according to Sections 3730.204(c) and 3730.310. These requests shall not be approved or disapproved unless notice has been given as provided in Section 3730.206 and a hearing has been held in conformance with Subpart B.
- c) Any request for a transfer that includes the following statements may be approved by the Department after 30 days notice to all permittees and an opportunity for hearing has been provided:
 - 1) The transferor must have satisfied all of the conditions precedent attached to its water allocation permit.
 - 2) The transferee must be a duly constituted regional water supply organization.
 - 3) The transferor and transferee must clearly indicate that the transferee assumes responsibility for compliance by the transferor with the requirements of Sections 3730.307 and 3730.309.
 - 4) The requested transfer must comprise 100% of the transferor's allocation.
 - 5) The transferred allocation must be used solely by the transferor.
- d) Transfers to another user of any part of an allocation, except those transfers described in subsection (c), will be considered prima evidence of a reduction in the transferor's water use needs equivalent in size to the transferred allocation when the transferor applies for a renewal permit. However, evidence that an applicant has obtained additional Lake Michigan water from other users beyond that amount originally allocated to the transferee will not be sufficient to establish a prima facie

case that the transferee-applicant's original allocation should be increased by a corresponding amount.

e) All transfers terminate upon the expiration of the transferor's allocation permit.

History

SOURCE:

Amended at 38 Ill. Reg. 22801, effective November 18, 2014.

Annotations

Research References & Practice Aids

Authority & General Source

ILLINOIS ADMINISTRATIVE CODE

End of Document

17 Ill. Adm. Code 3730.307

This document is current through January 6, 2023

IL - Illinois Administrative Code > TITLE 17. CONSERVATION > CHAPTER I. DEPARTMENT OF NATURAL RESOURCES > SUBCHAPTER h. WATER RESOURCES > PART 3730. ALLOCATION OF WATER FROM LAKE MICHIGAN > SUBPART C. ALLOCATION RULES

§ 3730.307 Conservation Practices and Other Permit Conditions

a) The Department shall condition allocations within a user category upon required conservation practices for each user category as specified in subsections (b) and (c). Failure by any permittee to meet the conservation requirements applicable to it within a reasonable period of time will, upon notice, hearing and determination of the failure, constitutes a violation of a Department order.

b) Permittees in Categories IA and IB shall limit non-revenue water so that it is less than 12% of net annual pumpage (system input volume) in Water Year 2015, decreasing to no more than 10% by Water Year 2019 and all years thereafter. Permittees whose non-revenue water exceeds the non-revenue thresholds (12% in Water Year 2015, decreasing to 10% by Water Year 2019) shall submit a water system improvement plan that outlines the actions the permittee plans to undertake, along with a timeframe, to reduce non-revenue water to less than the thresholds outlined in this subsection. The Department may grant a waiver to the requirements to submit a water system improvement plan to a permittee whose non-revenue water exceeds the thresholds if it can be shown that the reason for exceeding the non-revenue water threshold is due to metered, but unbilled, consumption or to authorized, unmetered, unbilled consumption when the quantity can be determined through acceptable engineering practices. The Department recognizes that actions necessary to reduce water losses can require significant capital expenditures and a lengthy timeframe, and that communities face other pressing infrastructure needs, and will take this into account in reviewing and approving water system improvement plans.

c) The Department shall require evidence of adoptions by the permittee of the following conservation practices as applicable to the particular user:

- 1) Leakage monitoring and correction for storage, transmission and distribution systems.
- 2) Metering of all new construction. When practicable and feasible, the

Department recommends sub-metering in new multi-family buildings.

- 3)** Metering of existing non-metered services as part of any major remodeling.
 - 4)** The adoption of ordinances requiring that new and replacement plumbing fixtures be a labeled WaterSense product, as specified by USEPA.
 - 5)** The adoption of ordinances requiring the installation of closed system air conditioning in all new construction and in all remodeling.
 - 6)** The adoption of ordinances requiring that all lavatories for public use in new construction or remodeling be equipped with metering or self-closing faucets.
 - 7)** The adoption of ordinances requiring that all newly constructed or remodeled car wash installations be equipped with a water recycling system.
 - 8)** The adoption of ordinances that restrict non-essential outside water uses to prevent excessive, wasteful use. These shall provide that unrestricted lawn sprinkling will not be allowed from May 15 through September 15 of each year by requiring, as a minimum, that lawn sprinkling shall not occur on consecutive days nor shall any lawn sprinkling occur during at least a 6 hour period in the middle of the day (i.e., 10 a.m. through 4 p.m., noon to 6 p.m.) when evapotranspiration is at its highest. New lawns (less than 3 months old) may be exempted from this provision. In addition, new/replacement sprinkler systems shall be equipped with a WaterSense labeled irrigation controller and shall be in compliance with Section 2.5(g) of the Illinois Plumbing License Law [225 ILCS 320].
 - 9)** Development and implementation of public programs to encourage efficient water use.
 - 10)** Installation of facilities and implementation of programs to reduce to a reasonable minimum, and to accurately account for, water used for navigational and discretionary diversion purposes.
- d)** Within 90 days after receipt of an allocation permit, each permittee that uses any water from deep aquifer pumpage shall submit and implement a phased program designed to end this practice, other than for emergency or standby use, within five years after the receipt of Lake Michigan water. New applicants may petition the Department for a waiver of this requirement, which the Department may grant if it determines that the applicant has a legitimate legal or practical basis for its inability to comply with this requirement and when a partial allocation of Lake Michigan water will result in reduced pumpage from the deep aquifer. Existing permittees are not eligible to petition the Department for a waiver of this requirement.
- e)** As a condition of receiving an allocation of Lake Michigan water, all permittees

will limit unmetered hydrant uses to 1% or less of net annual pumpage in each annual accounting period. The Department may grant an exception to this requirement if it can be shown by the user that this requirement can't be met. In determining the merits of a request for an exception, the Department considers such factors as engineering studies of hydrant uses and unusual circumstances during an annual accounting period.

f) The Department recommends that all permittees adopt water rate structures based on metered water use and that water rate structures be developed that will discourage excessive water use. The Department also recommends that water rates reflect the full cost of water, including the long term cost to properly maintain and operate the water supply distribution system in such a manner as to keep system losses to a minimum.

History

SOURCE:

Amended at 14 Ill. Reg. 1484, effective January 3, 1990.

Amended at 38 Ill. Reg. 22801, effective November 18, 2014.

Annotations

Research References & Practice Aids

Authority & General Source

ILLINOIS ADMINISTRATIVE CODE

End of Document

17 Ill. Adm. Code 3730.308

This document is current through January 6, 2023

IL - Illinois Administrative Code > TITLE 17. CONSERVATION > CHAPTER I. DEPARTMENT OF NATURAL RESOURCES > SUBCHAPTER h. WATER RESOURCES > PART 3730. ALLOCATION OF WATER FROM LAKE MICHIGAN > SUBPART C. ALLOCATION RULES

§ 3730.308 Duration of Permit and Renewals

- a) The Department shall determine the duration of each allocation permit, which shall be stated upon the face of the permit.
- b) At the expiration of each allocation permit, the permit shall be renewed year by year in the same amount and on the same conditions as were in force upon expiration of the permit, unless any entity, or the Department on its own motion, files a petition for modification in compliance with Section 3730.204(c) and 3730.310 and the Department determines that the petition is not frivolous. A permit shall remain in force and effect pending a determination by the Department of the issues raised in the modification proceedings.

Annotations

Research References & Practice Aids

Authority & General Source

ILLINOIS ADMINISTRATIVE CODE

17 Ill. Adm. Code 3730.309

This document is current through January 6, 2023

IL - Illinois Administrative Code > TITLE 17. CONSERVATION > CHAPTER I. DEPARTMENT OF NATURAL RESOURCES > SUBCHAPTER h. WATER RESOURCES > PART 3730. ALLOCATION OF WATER FROM LAKE MICHIGAN > SUBPART C. ALLOCATION RULES

§ 3730.309 Reporting Requirements

- a) Within 60 days after the end of each accounting period, all permittees shall furnish the following information and such other information relevant to the Lake Michigan allocation as the Department may require on forms provided by the Department:
- 1) Total water use from all sources for the accounting year and the percentage of water distributed through metered services;
 - 2) Average daily water use by month from all sources for the accounting year;
 - 3) Maximum and minimum daily pumpage from all sources for the accounting year and the dates of these events;
 - 4) Total pumpage from Lake Michigan, shallow aquifer wells, and deep aquifer wells, including the number and location of each well, and the percentage of total water use for the accounting year from each source;
 - 5) Individual well production rates for the accounting year, including well numbers, average pumping rates, and average number of hours pumped per day;
 - 6) For each well, a list of all parameters that exceed the standards in 35 Ill. Adm. Code 620;
 - 7) A list of which wells, if any, interfere with each other during simultaneous pumping;
 - 8) A description of any problems anticipated from any well supply during the next accounting period;
 - 9) The amount and percentage of water from all sources for the accounting period used for each of the following purposes:
 - A) Residential,
 - B) Industrial and commercial,

- C)** Municipal,
- D)** Firefighting and training,
- E)** Water main flushing,
- F)** Sewer flushing,
- G)** Street cleaning,
- H)** Public and private construction,
- I)** Leakage,
- J)** Lockage,
- K)** Storm water runoff,
- L)** Navigational makeup,
- M)** Discretionary diversion,
- N)** Unmetered services,
- O)** Non-revenue water, and
- P)** Other identified uses;

10) Summaries of the results and recommendations of any leak surveys conducted in the accounting period;

11) Amounts transferred and sources of all water sold or otherwise provided to any other named distribution system during the accounting period;

12) A copy of the current water rates for all consumers, including an indication whether each water rate structure is declining, flat or increasing; and

13) The name, address and telephone number of the person the Department should contact if further information is needed.

b) Within 30 days after the end of each month, all permittees with an intake structure on Lake Michigan shall state the daily pumpage rates for Lake Michigan water, the monthly average pumpage rate, the average daily supply transferred to other named entities, and such other information relevant to the Lake Michigan allocation as the Department may reasonably require on forms provided by the Department.

c) Within 30 days after the end of each month, all permittees who are the first Illinois users of water diverted from Lake Michigan outside Illinois shall state the daily pumpage rates for Lake Michigan water, the monthly average pumpage rate, the average daily supply transferred to other entities, and such other information relevant to the Lake Michigan allocation as the Department may reasonably require

on forms provided by the Department.

History

SOURCE:

Amended at 38 Ill. Reg. 22801, effective November 18, 2014.

Annotations

Research References & Practice Aids

Authority & General Source

ILLINOIS ADMINISTRATIVE CODE

End of Document

17 Ill. Adm. Code 3730.310

This document is current through January 6, 2023

IL - Illinois Administrative Code > TITLE 17. CONSERVATION > CHAPTER I. DEPARTMENT OF NATURAL RESOURCES > SUBCHAPTER h. WATER RESOURCES > PART 3730. ALLOCATION OF WATER FROM LAKE MICHIGAN > SUBPART C. ALLOCATION RULES

§ 3730.310 Petitions for Modification

- a) Petitions for modification of an allocation permit may be filed by any entity at any time. Petitions for modification must comply with Section 3730.204(c). If the Department finds that any such petition is supported by an adequate statement of reasons, is not plainly devoid of merit or frivolous, and does not deal with a subject on which a hearing has been held within the preceding six months, a hearing shall be held pursuant to Sections 3730.201 through 3730.215. Copies of each petition for modification shall be served upon all parties to the allocation proceedings. A copy of the service list may be obtained from the Department.
- b) Bases for modification of an allocation permit include, but are not limited to:
 - 1) Evidence of a substantial change in circumstances that results in a change in water needs of the entity;
 - 2) Violation of a permit condition and/or failure or neglect to properly utilize an allocation;
 - 3) Determination by the Department that a total reallocation is necessary to best utilize the Lake Michigan diversion to preserve the health, safety and welfare of the Northeastern Illinois Metropolitan Region; or
 - 4) Notification received by the Department from the Illinois Environmental Protection Agency stating that pollution abatement facilities affecting the water quality of the Chicago Area Waterway System have become operational or that standards affecting the water quality of the Chicago Area Waterway System have been changed.
- c) In the Department's determination of the outcome of a modification proceeding, the Department shall determine the effect of a modification on any outstanding securities, debt obligations or contractual obligations of any permittee whose allocation is the subject of the modification proceeding and shall endeavor to avoid any material adverse effect on these obligations.

- d) The Department may, in its discretion, schedule a hearing upon any petition without regard to the existence of the factors listed in subsection (b) if it deems holding the hearing to be in the public interest.

History

SOURCE:

Amended at 38 Ill. Reg. 22801, effective November 18, 2014.

Annotations

Research References & Practice Aids

Authority & General Source

ILLINOIS ADMINISTRATIVE CODE

End of Document