

City of Chicago Combined Sewer Overflows

National Pollutant Discharge Elimination System (NPDES) Permit Responsiveness Summary

Regarding

June 30, 2015 Public Hearing

Illinois Environmental Protection Agency
Office of Community Relations
March , 2024



City of Chicago Combined Sewer Overflows

National Pollutant Discharge Elimination System (NPDES) Permit Responsiveness Summary

TABLE OF CONTENTS

ILLINOIS Environmental Protection Agency PERMIT DECISION.....	3
PRE-HEARING PUBLIC OUTREACH.....	4
JUNE 30, 2015 PUBLIC HEARING	5
BACKGROUND OF CITY OF CHICAGO COMBINED SEWER OVERFLOWS	5
RESPONSES TO COMMENTS, QUESTIONS, AND CONCERNS.....	7
NPDES and Permitting Requirements.....	7
Nine Minimum Controls.....	14
Monitoring.....	19
Prevention of Dry Weather Overflows	25
Control of Solids and Floatables.....	31
Maximization of Collection System for Storage and of Flow to Publicly Owned Treatment Works.....	32
Review of Sewer Use Ordinance/Pretreatment Control	33
Operational and Maintenance Plan, Pollution Prevention Plan, Combined Sewer Overflow Notification Plan, and Public Participation.....	35
Operational and Maintenance Plan.....	36
Pollution Prevention Plan.....	37
Public Notice of Combined Sewer Overflow Occurrences and Impacts	38
Long Term Control Plan/Tunnel and Reservoir Plan Water Quality Issues	41
Sensitive Area Considerations in the Long-Term Control Plan	47
ACRONYMS & INITIALS	52
DISTRIBUTION OF RESPONSIVENESS SUMMARY	54
WHO CAN ANSWER YOUR QUESTIONS	54

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (Illinois EPA or Agency)

City of Chicago Combined Sewer Overflows (CSO)

Renewal Permit

NPDES Permit Number IL0045012

ILLINOIS EPA PERMIT DECISION

On March , 2024, the Illinois EPA renewed the NPDES permit for City of Chicago, CSOs. The following changes were made to the publicly noticed draft permit on March 30, 2015:

1. Added 9 additional CSO outfalls (057,063,067,074,084,156,172,194,226) and 5 additional parameters (fecal coliform, total phosphorous, total nitrogen, chloride, dissolved oxygen) for monitoring and sampling on Page 2.
2. Corrected typographical errors in the Combined Sewer and Treatment Plant Discharges in Special Condition 3.
3. Reorganized Special Condition 3.
4. Special Condition 3, Paragraph 3 adds an additional requirement for the Permittee to document in writing and submit to the Illinois EPA the respective roles and responsibilities of both the Permittee and Metropolitan Water Reclamation District of Greater Chicago within nine months of the effective date of this permit.
5. Special Condition 3, Paragraph 5 adds an additional written reporting requirement, detailing the results of inspections for each outfall.
6. Special Condition 3, Paragraph 10 adds an additional requirement for the Permittee to evaluate the existing monitoring program within 24 months from the effective date of the Permit.
7. Special Condition 3, Paragraphs 11, 12, and 13 adds the development of a Nine Minimum Controls (NMC) Enhancement Plan along with related measures. Within 120 days from the effective date of the permit, the City will consult with interested stakeholders. The draft plan will be presented to the public for comments and at hearings. The plan will be developed within 18 months after the effective date of the permit with stakeholder consultation and public comments.
8. Special Condition 3, Paragraphs 14 and 15 adds an additional requirement for the Permittee to update and expand its 2014 Green Stormwater Infrastructure Strategy (Strategy). This Strategy will establish initiatives with measurable goals and outcomes through incremental measures that will reduce CSOs, prioritizing sensitive areas and environmental justice communities.
9. Special Condition 3, Paragraphs 16, 17, and 18 adds an additional requirement for the NMC Enhancement Plan shall plan for the maximization of flow to the publicly owned treatment works POTW for treatment at MWRDGC plants and minimization of stormwater entering the plants, including a robust green infrastructure program across the City to enhance the effectiveness of the TARP. The NMC Enhancement Plan shall include a long-term monitoring and review program to determine the effectiveness of the O&M Plan and detect discharge violations.

10. Special Condition 3, Paragraphs 20 and 21 adds an additional requirement for that the 10 outfalls listed be prioritized for mitigation measures to the extent practicable at those sites. Within one year of the effective date of this permit, the City will indicate which of the outfalls do not discharge into sensitive areas. The City-owned CSOs identified as most active and subject to this prioritization shall be reviewed annually and may be modified based on reported CSO discharges.
11. Special Condition 3, Paragraphs 24 and 25 adds a Solids and Floatables Program Plan in its Pollution Prevention Plan including but not limited to street sweeping, solids collection, an analysis of the number of skimmer boats required and a schedule for their use. Also, within 24 months of the effective date of this permit, the Permittee shall purchase at least 2 (two) additional skimmer boats and notify IEPA when purchased.
12. Special Condition 3, Paragraph 28 adds an additional requirement for the Permittee expand the public notification program. Within six (6) months of the effective date of this permit, the Permittee shall develop a plan for a CSO discharge notification system utilizing dynamic signs, flags, lights, or some other on-site notification system in conjunction with stakeholders. The public notification program shall be presented to the general public at two (2) city-wide public information meetings (one virtual and one in-person).
13. Special Condition 3, Paragraph 31 adds the new requirements listed in items 1-12 above in the table summary of the compliance dates.

PRE-HEARING PUBLIC OUTREACH

The notice of the NPDES permit public hearing was published in the *Chicago Sun Times* on May 15, and 22, 29, 2015.

The hearing notice was mailed or e-mailed to:

- a) State & U.S. Representatives & Senators with the proposed CSOs within their district;
- b) Cook County officials;
- c) Officials in the Illinois municipalities of Chicago, Forest View, Stickney, Nilens, Lincolnwood, Evanston, Norridge, Harwood Heights, River Grove, River Forest, Oak Park, Schiller Park, Franklin Park, Elmwood Park, Berwyn, Cicero, Park Ridge, Summit, Bedford Park, Burbank, Oak Lawn, Chicago Ridge, Alsip, Blue Island, Calumet Park, Dixmoor, Riverdale, Dolton, Burnham, Calumet City, Harvey, Phoenix, Posen, Merrionette Park, Worth, Des Plaines, Morton Grove, Western Springs, Wilmette, Arlington Heights, Brookfield, Forest Park, LaGrange, Lagrange Park, Lansing, Lemont, Lyons, Maywood, Melrose Park, Mount Prospect, North Riverside, Skokie, and South Holland;
- d) Those filing comments or requesting a public hearing on the permit;
- e) Those on the contact list for NPDES public notices; and,
- f) Those who have requested to be notified of Bureau of Water hearings.

On May 12, 2015, the hearing notice was posted on the Illinois EPA website (it may be necessary to paste the website into the window of your web browser):

<http://www.epa.illinois.gov/Assets/iepa/public-notices/2015/city-of-chicago/hearing-notice.pdf>

Hearing notices were posted at the Illinois EPA headquarters in Springfield and in the Des Plaines Regional Office.

JUNE 30, 2015, PUBLIC HEARING

Hearing Officer Dean Studer opened the hearing June 30, 2015, at 3:00 PM at the James R Thompson Center (Auditorium) in Chicago, Illinois.

Illinois EPA Hearing Participants:

Sara Terranova, Division of Legal Counsel
Jay Patel, Field Operations Section, Des Plaines Regional Office, Bureau of Water
Amy Dragovich, Permits Section, Bureau of Water
Kaushal Desai, Permits Section, Bureau of Water

Comments and questions were received from those in attendance. Hearing Officer Dean Studer closed the hearing at approximately 6:00 p.m. on June 30, 2015. Illinois EPA personnel were available before, during and after the hearing to meet with elected officials, news media and concerned citizens.

Approximately 35 persons representing the neighbors, local government, businesses, environmental groups, and other interested citizens, participated in or attended the hearing. A court reporter prepared a transcript of the public hearing which was posted on the Illinois EPA website at: <http://www.epa.illinois.gov/Assets/iepa/public-notices/2015/city-of-chicago/hearing-transcript.pdf>.

The draft permit was public noticed on February 27, 2015. The public comment period ended on July 31, 2015 when the hearing record closed.

BACKGROUND OF CITY OF CHICAGO COMBINED SEWER OVERFLOWS

The Illinois EPA Bureau of Water made a tentative determination to issue a National Pollutant Discharge Elimination System (NPDES) permit to discharge into the waters of the state and prepared a draft permit for the City of Chicago Combined Sewer Overflows. The address of the discharger is: City of Chicago—Department of Water Management, 1000 East Ohio Street, Chicago, Illinois 60611. The permittee is located in Cook County and will be authorized to discharge into the following receiving waters: North Shore Channel, North and South Branch of the Chicago River, Chicago River, Sanitary and Ship Canal, Calumet River, Des Plaines River, North Branch Canal, Collateral Canal, South Fork of South Branch Chicago River (Bubbly Creek), Little Calumet River, and Calumet Sag Channel.

Illinois EPA held this hearing for the purpose of taking comments on the draft permit prior to taking final action on the permit application. Issues relevant to this proceeding included the applicant's compliance with requirements of the federal Clean Water Act and Subtitle C of 35 Illinois Adm. Code. Because Illinois is mandated by state law to issue a permit if the applicant meets the requirements for obtaining a permit, those recommending denial of the permit application were instructed in the hearing notice to be prepared to state the regulation that is the basis of their recommendation.

The applicant is engaged in conveying domestic and industrial wastewater for the City of Chicago and other surrounding municipalities to the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC) for treatment.

The length of the permit is approximately 5 years.

This permit authorizes discharge from 184 Combined Sewer Overflows (CSOs) in accordance with 35 Ill. Adm. Code 306.305. The flow from these discharges varies.

The documents referenced in the answers below can be found as part of the record for this permit.

RESPONSES TO COMMENTS, QUESTIONS AND CONCERNS

Comments, Questions and Concerns in regular text
Agency responses in bold text

NPDES AND PERMITTING REQUIREMENTS

1. Special Condition 3, Requirement No. 3 states that CSO treatment shall be coordinated with the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC). What treatment requirements are Chicago's responsibility under this provision?

In accordance with Special Condition 3, Paragraph 1, the permit requires the City to prevent accumulation of sludge deposits, floating debris and solids, and prevent depression of oxygen levels below applicable water quality standards. Additional requirements have been added to the permit since the public notice period including: evaluating the effectiveness of the existing monitoring program, developing Nine Minimum Controls Enhancement Plan with public participation, evaluate Green Stormwater infrastructure, maximize flow to existing POTW, a solids floatable plan, and expand its public notification program. (See Special Condition 3).

2. The permit should be clear as to what the City will be held responsible for regarding control of CSOs, how the public will be notified when CSOs occur, as well as inspections, cleaning, monitoring and reporting requirements and a Long Term Control Plan for reducing pollution from Chicago's CSOs. I understand that the city's sewers convey flow to MWRDGC interceptive sewers, making this a more complicated system than we see in many other CSO communities. But can the distinct responsibilities for the City of Chicago and MWRDGC be better delineated in the permit so that it is clear what agency is required to do what? We would like a much higher degree of specificity as to the specific roles and responsibilities of the City of Chicago and the MWRDGC as it relates to:
 - a. Monitoring at City owned CSO outfalls
 - b. Implementation of a Long Term Control Plan that is specific to the City outfalls.
- a. **For the CSOs that require specific monitoring and reporting as identified on Page 2 of the permit, the City samples and submits a Discharge Monitoring Report (DMR) to IEPA's NetDMR portal. (See Special Condition 4). For the 73 CSOs listed in Special Condition 3, Paragraph 8 of the permit, MWRDGC monitors and reports to Illinois EPA by electronic submittal. (See Special Condition 4) The Discharges from CSOs listed in Special Condition 3 that are listed as "unmonitored outfalls" are represented by a monitored outfall. See Combined Sewer Overflow Control Policy, 59 FR 18692 (1994). The City relies on data collected by MWRDGC to fulfill the City's monitoring requirements**

and is reported to IEPA by the City. See MWRDDGC & City of Chicago O&M Collaboration Agreement Appendix A.

- b. TARP is the LTCP for the City's outfalls. In 1995, Illinois EPA approved TARP as MWRD's long term control under the presumptive approach. Implementation of the LTCP is the responsibility of MWRDGC. [See Illinois EPA letter dated June 28, 1995 to Metropolitan Water Reclamation District of Great Chicago. The Agency's determination covered the "CSO's picked up by TARP". See *Id.*] The TARP System picks up CSOs for the Chicago area, including Chicago and the 51 other satellite communities and is therefore specific to the City's outfalls as well. TARP was developed by local, regional, state, and federal governments as a regional plan for improving water quality and reducing flood damages. [See *United States v. Metro. Water Reclamation Dist. Of Greater Chicago*, 11 C 8859, Attachment 1, Responsiveness Summary at 99 (N.D. Ill. Jan. 6, 2014), *affd*, 792 F.3d 821 (7th Cir. 2015).]
3. The draft permit does not require the submission of a number of reports, plans, etc. by Chicago to IEPA and does not establish a proper process for the review and comment on these submissions by IEPA and the public.

The Pollution Prevention Plan, CSO Operational and Maintenance (O&M) Plan, and Public Notification Plans are all required to be presented to the public at public information meetings. See Special Condition 3, Paragraph 6(i). Documentation that the public meeting was held, a summary of all significant issues raised by the public and the City's response to each issue must be submitted to the IEPA. See *Id.*

Additional requirements have been added to the permit since the public notice period include evaluating the effectiveness of the existing monitoring program, developing Nine Minimum Controls Enhancement Plan with public participation, evaluate Green Stormwater infrastructure, maximize flow to existing POTW, a solids floatable plan, and expand its public notification program. (See Special Condition 3).

The Agency encourages all interested parties to provide input to the permittee through the public participation process for these plans. (See Special Condition 3 Paragraph 28)

4. The draft permit lacks a complete and detailed Fact Sheet, making it difficult for the public and groups such as ours to fully understand the decision-making process and reasoning behind the draft permit's development.

The format of the current fact sheet was designed in consultation with several environmental groups and meets the requirements of 40 CFR 124.8 and 35 Illinois Adm. Code 309.113. The public notice fact sheet is used for public notice and is not part of the final permit. Therefore, the fact sheet is not being revised or reissued.

5. Our review of the draft permit and other documents, as well as discussions with US EPA, Illinois EPA, the City of Chicago and others have revealed to us a lack of synchronization, coordinated preparation and implementation of controls between Chicago and MWRDGC.

MWRDGC and the City signed a Collaboration Agreement in 2006 regarding the maintenance and operation activities of each party for the interconnected infrastructure. See MWRDGC & City of Chicago O&M Collaboration Agreement Appendix A. The Illinois EPA will continue to work with both the City and MWRDGC to coordinate the responsibilities for the CSOs. Additional requirements have been added to the permit since the public notice period including the evaluation of the effectiveness of the existing monitoring program, developing Nine Minimum Controls Enhancement Plan with public participation, evaluate Green Stormwater infrastructure, maximize flow to existing POTW, a solids floatable plan, and expand its public notification program. (See Special Condition 3)

6. The Chicago CSO permit should be modified to be much clearer in what the City is expected to accomplish under the permit. The draft permit does not comply with all of the requirements in the National CSO Policy and the Clean Water Act and will not contribute to reasonable progress in controlling Chicago's CSOs. Any reissued permit to Chicago must aggressively require Chicago to take multiple actions to address and control CSOs to the maximum extent possible. Additionally, information on Chicago's CSO control program should be readily available to the general public to facilitate its assessment of progress.

TARP is the CSO LTCP for the Chicago area, including Chicago and the 51 other satellite communities under the presumptive approach of the 1994 Combined Sewer Overflow Control Policy (CSO Policy or Federal CSO Policy of 1994). All the City's CSO outfalls are connected to the TARP system and once the TARP system is complete, water quality standards shall be met. The City employs strategies to minimize CSOs including: regular cleaning of the sewers and ancillary structures, sewer and structure lining and replacement programs, mandatory stormwater detention policies for regulated developments, installation of flow restrictors, encouragement of downspout disconnection, and green infrastructure design. [See City of Chicago, Dept. of Water Management letter dated June 21, 2017 to Jaime Rabins and Responses 2 and 3.]

Additional requirements have been added to the permit since the public notice period including the evaluation of the effectiveness of the existing monitoring program, developing Nine Minimum Controls Enhancement Plan with public participation, evaluate Green Stormwater infrastructure, maximize flow to existing POTW, a solids floatable plan, and expand its public notification program. (See Special Condition 3)

7. The Permit Fails to Reflect the Phasing Requirements Mandated by the Policy.

This is a Phase II Permit under USEPA's 1994 CSO Control Policy. The Illinois EPA determined that TARP conformed with the requirements of the presumption approach of the Policy. See Illinois EPA letter dated June 28, 1995 to Metropolitan Water Reclamation District of Great Chicago. The Agency believes that the completion of TARP will be adequate to meet water quality standards and protect designated uses of receiving waters pursuant to Section I.C. of the Policy. See *Id.* This section specifically exempts MWRDGC from the planning requirements otherwise expected under the Policy. See *Id.* Therefore, the LTCP requirements are the responsibility of MWRDGC and are specified in the federal Consent Decree (Consent Decree). See *United States of America, and the State of Illinois v. Metropolitan Water Reclamation District of Greater Chicago*, Consent Decree (filed December 14, 2011).

8. The permit contains no plan setting a level of what the City has to do in the treatment of the CSOs, or requirements for treatment, simply a statement to just treat it. The permit should contain some goal for reduction of CSOs.

Treatment requirements for CSO's are specified in Special Condition 3, Paragraphs 1 thru 5 and require: (1) All combined sewer overflows shall be given sufficient treatment to prevent pollution and the violation of applicable water quality standards. (2) All dry weather flows, the first flush of storm flows, and additional flows, but not less than ten times the average dry weather flow for the design year, shall be conveyed to MWRDGC for treatment. (3) All CSO discharges authorized by this Permit shall be treated, in whole or in part, to the extent necessary to prevent accumulations of sludge deposits, floating debris and solids and to prevent depression of oxygen levels below the applicable water quality standards. (4) Overflows during dry weather are prohibited. (5) The collection system shall be operated to optimize transport of wastewater flows and to minimize CSO discharges.

Goals for reduction of CSOs are considerations of the Long Term Control Plan as noted in the Consent Decree, Appendix A, page 4. The City also currently employs strategies to minimize CSOs including: regular cleaning of the sewers and ancillary structures, sewer and structure lining and replacement programs, mandatory stormwater detention policies for regulated developments,

installation of flow restrictors, encouragement of downspout disconnection, and green infrastructure design. See City of Chicago, Dept of Water Management letter dated June 21, 2017 to Jaime Rabins.

9. The basic view of the permit is fundamentally misguided. It's based on false premise that MWRDGC is going to take care of Chicago's CSOs.

Both MWRDGC and the City of Chicago have responsibilities for controlling CSOs. MWRDGC is responsible for implementing the Long Term Control Plan, MWRDGC and the City will review and modify pretreatment requirements to assure CSO impacts are minimized per Special Condition 3, Paragraph 6(i). The City is responsible for maintaining and properly operating the collection system pursuant to Special Condition 3, Paragraphs 5, 6b, and 8. There will be public notification of CSO occurrences. See Special condition 3, Paragraph 18. Also, the City and MWRD will monitor CSOs. See MWRDDGC & City of Chicago O&M Collaboration Agreement Appendix A and Special Condition 3, Paragraph 15. The City and MWRD will control floatables through their Floatables Control Plan. See MWRD Operations and Maintenance Plan, Section 3.3; Consent Decree; and Special Condition 3, Paragraph 6i. There will also be minimization of stormwater flow into the combined sewer system which are the joint responsibilities of both MWRDGC and the City. See MWRDDGC & City of Chicago O&M Collaboration Agreement Appendix A and Special Condition 3.

10. Are all of the requirements in the permit addressing the prevention of accumulation of sludge deposits, floating debris and solids the responsibility of the City of Chicago?

Yes, the City is responsible for ensuring that the collection and conveyance system is maintained and properly operated, which includes cleaning to reduce solids buildup in sewers per Special Condition 3.

In addition, the City will develop a Solids and Floatables Program Plan which will include street sweeping, solids collection, and skimmer boat use. See Response 8.

11. I don't see Special Condition 7 in the draft permit you put on public notice. So I want to know why did you removed it and is there some other mechanism now in the permit that I am missing by which IEPA is requiring the city to assess its progress on reducing basement backups?

Special Condition 7 of the draft permit dated April 8, 2014 required the permittee to develop, implement, and submit a Capacity, Management, Operations, and

Maintenance Plan (CMOM). Since Special Condition 3 has similar requirements, Special Condition 7 was duplicative and removed.

CMOM requirements are to ensure that separate sanitary sewers are properly operated and maintained. In combined sewage systems, —like the City of Chicago, these requirements are part of the Nine Minimum Controls.

12. Is Illinois EPA going to be tracking basement backups as a way of assessing and evaluating improvements by the city? At one point, the Illinois EPA had decided to do so. Is that something that you've now decided is no longer appropriate to include as a condition in this permit?

Residents within the city of Chicago are encouraged by the City to report basement flooding to the City of Chicago for investigation. Basement backups may be indicative of maintenance issues with the sewer system, and reports of such can be used by local governments for performing or prioritizing system maintenance or modifications, if necessary. This information is reviewed during IEPA field office inspections. The City is required to notify Illinois EPA if additional CSO discharge points are discovered per Special Condition 3, Paragraph 9. In addition, Standard Condition 10 also requires monitoring and reporting.

13. Are there CSOs on Bubbly Creek and if so, are these being monitored?

Yes, there are eight CSOs on the South Fork of the South Branch of the Chicago River also known as Bubbly Creek. MWRDGC monitors two CSOs (Discharge Nos. 194 and 198) which are representative of the eight CSOs. See Special Condition 3, Paragraph 8.

14. What is the City doing right now to treat the CSO discharge? If nothing, what are they planning on doing?

See Response 8.

15. I am concerned about CSO discharging pollutants into the Des Plaines River, including visually-disturbing photos, smelling raw sewage, carrying viruses and other pathogens that risk the health of myself and hundreds of thousands of others, and concern for the aquatic life of the river.

These concerns are among the reasons why USEPA developed the federal CSO Control Policy of 1994 (CSO Policy) which is now part of the federal Clean Water Act. TARP is the CSO LTCP for the Chicago area, including Chicago and the 51 other satellite communities. See Illinois EPA letter dated June 28, 1995 to

Metropolitan Water Reclamation District of Great Chicago. TARP is being implemented by MWRDGC under a federal consent decree. See Consent Decree. Once TARP is complete, MWRDGC will be required to evaluate if water quality standards are being met, and if not, propose additional remedies to meet them. See Consent Decree at 32. The Nine Minimum Controls are intended to ensure that basic control measures are in place to minimize the impacts from CSO discharges until compliance with water quality standards can be fully achieved. See Combined Sewer Overflow Control Policy, 59 FR 18691 (1994). The Consent Decree gives MWRDGC until 2029 to complete TARP. See Consent Decree at 3.

16. The draft permit does not sufficiently involve the public in multiple instances throughout the development and implementation of Chicago's CSO control program.

See Response 3. In addition, Special Condition 3, Paragraph 31 includes all the public involvement compliance dates which provides the public an opportunity to comment on the development of the City's program.

17. What does the City do to treat CSO discharges and prevent violations of applicable water quality standards? As of 2004, Chicago was planning to use a riverboat skimmer to treat CSOs. Is the riverboat skimmer still part of Chicago's plan? What else is Chicago doing right now to treat CSOs and prevent violations of water quality standards? What is it planning to do?

See Response 8. Skimmer boats are considered a last resort to floatables control in the CSO O&M Plan. A requirement to maintain and operate these skimmer boats has been added to Special Condition 3, Paragraph 24. In addition, the City must buy an additional two skimmer boats. (See Special Condition 3, Paragraph 25) To assure that they are most effectively utilized to cover a CSO event, use of boats is in coordination with MWRDGC, per their Floatables Control Plan. See MWRD Operations and Maintenance, Section 3.3; Consent Decree, Appendix B; and Special Condition 3, paragraph 4i.

18. What are IEPA's expectations for Chicago? What, for example, would constitute a violation of the controls? A single dry weather overflow? Ten? A hundred? Let's say Chicago doesn't begin monitoring the frequency and duration of CSOs within three years. Is that a violation?

The Illinois EPA's expectation is that the City will comply with all the conditions of the permit when it is issued. A summary of compliance dates is outlined in Special Condition 3, Paragraph 31. All dry weather overflows are violations of the permit pursuant to Special Condition 3, Paragraph 2. The City relies on data collected by MWRDGC to fulfill the City's monitoring requirements specified in the permit pursuant to Special Condition 3, Paragraph 3. However, if DMR reports and monitoring data are not submitted, it is a violation of the City's permit.

19. We have not seen evidence that deficiencies in Chicago's CSO control program as identified by US EPA's 2004 Compliance Investigation have been properly addressed and corrected.

The City responded to the US EPA Compliance Investigation. That response has been included in the record. See Response 52.

NINE MINIMUM CONTROLS

20. We urge you to ensure Chicago's permit fully complies with federal requirements, including the nine minimum controls. There's a comprehensive national framework for control of combined sewage overflows which urges permitting authorities to incorporate sewage overflow conditions into permits like Chicago's. Chicago must develop a control strategy for its CSOs, which goes beyond the Tunnel and Reservoir Plan that the Metropolitan Water Reclamation District of Greater Chicago is working to complete.

The following are the Nine Minimum Controls listed in the CSO NPDES Permit and the City's developed action plan for each.

I. Proper operation and maintenance programs for the sewer system and the CSOs.

Action: The City's current CSO O&M Plan was approved by the IEPA in 2013. The City is updating this plan to reflect its recent changes in operational activities. A requirement to provide a copy of the Pollution Prevention Plan and CSO O & M Plan on the city website has been added to the permit.

II. Maximum use of the collection system for storage

Action: The City has designed and maintains the combined sewer system with catch basin inlet control to maximize the capacity of the sewer system. Stormwater detention is mandated for all new regulated developments. Green infrastructure is routinely installed on public and private property. Regular cleaning of sewers and structures optimize storage capacity in the system. Transport and storage within MWRDGC's TARP collection system has been maximized through modelling efforts.

III. Review and modifications of pretreatment requirements to assure CSO impacts are minimized

Action: Through the City's Fats, Oil, and Grease (FOG) management procedures, grease traps are required to be installed in residences and businesses that are susceptible to dumping FOG into the sewers. When there is evidence that traps are malfunctioning or not installed, the City inspects the units and issues

violations, when applicable. Additionally, MWRDGC is responsible for managing industrial pretreatment programs in the service area to minimize combined sewer overflow impacts related to discharges to the collection system from nondomestic users.

IV. Maximization of flow to the POTW for treatment

Action: The City employs strategies to maximize flow including: regular cleaning of the sewers and ancillary structures, sewer and structure lining, sewer replacement programs to properly size pipe diameters, encouragement of downspout disconnection, and green infrastructure design.

V. Prohibition of CSOs during dry weather

Action: The City has designed and maintains the combined sewer system to prevent dry weather overflows (DWOs). All dry weather flows are directed to MWRDGC for conveyance to treatment facilities. As an added precaution, the TARP gates to Thornton Reservoir are 100% open and to McCook Reservoir are 10% open during dry weather to help prevent DWOs.

VI. Control of solids and floatable materials in CSOs

Action: The Chicago sewer system is designed and maintained by the City. The City's system includes the use of half-traps in catch basins, restrictors, weirs, and narrow slots on drainage lids that prevent floatables from entering the sewers. The City and MWRDGC collaboratively work to prevent solids and floatable material from reaching the CSOs by directing all dry weather flows, the first flush of stormwater flows, and additional flows to MWRDGC for conveyance to treatment facilities.

VII. Pollution prevention programs which focus on source control activities

Action: The Pollution Prevention Plan has been integrated into the City's CSO O&M Plan. The plan's pollution prevention controls include best management practice (BMP) design review elements, education (both public and internal), inspections and response for illicit discharge and dry weather flow, street cleaning and leaf removal, flow restrictor use, and green infrastructure design.

VIII. Public notification to ensure that citizens receive adequate information regarding CSO occurrences and CSO impacts

Action: CSO notification signs are placed at the outfalls to alert the public of the possibility of flow nearby. MWRDGC maintains a website that allows the public to sign up for e-mail notifications of a CSO event. This site also contains current and historical sewer overflow information. (<http://geohub.mwrdd.org/pages/cso>). The City website must include a computer link to the MWRDGC website location

where the public notification of CSO occurrences are posted. A requirement to provide a copy of the Pollution Prevention Plan on the city website has been added to the permit.

IX. Monitoring to characterize impacts and efficiency of CSO controls

Action: The O & M Collaboration Agreement signed by the City and MWRDGC states that MWRDGC “will continue to provide monitoring and reporting as specified in the Illinois EPA NPDES permits. This includes the monitoring of representative outfalls for reporting duration and frequency of combined overflows to receiving waterways...”. MWRDGC operates telemetric tide gate monitors at 73 CSOs within the City as listed in Special Condition 3, Paragraph 8. The tide gate monitors identify whether each gate is open or closed and are used to determine the frequency and duration of a CSO event. This information is then reported to Illinois EPA per the requirements detailed in MWRDGC’s CSO permits. The City relies on the monitoring completed by MWRDGC to fulfill the City’s permit requirements.

The LTCP for the Chicago area combined sewer system is TARP as affirmed by the federal court system. See Illinois EPA letter dated June 28, 1995 to Metropolitan Water Reclamation District of Great Chicago; and *United States v. Metro. Water Reclamation Dist. Of Greater Chicago*, 11 C 8859, (N.D. Ill. Jan. 6, 2014), *affd*, 792 F.3d 821 (7th Cir. 2015). Upon completion of TARP if information becomes available which indicates the CSO discharges cause violations of applicable water quality standards or cause use impairment, the City and MWRDGC must develop and implement a revised LTCP to assess and abate impacts from CSO discharges. See Consent Decree at 32.

21. The draft permit does not sufficiently address and ensure compliance with each of the Nine Minimum Controls as required by the National CSO Control Policy. Compliance with the nine minimum controls (NMC) is a critical aspect of the National CSO policy. The NMC are best management practices that should be implemented by the City of Chicago. It has been many years since Chicago has reported how they are complying with each of the NMC. Chicago should be required in this permit to review and report progress made under each of the NMC. IEPA, USEPA and the general public should be able to assess the acceptability of how and whether Chicago is fully implementing the NMC by comparing the implementation of the controls to requirements in USEPA guidance document titled “Combined Sewer Overflows: Guidance for Nine Minimum Controls”, EPA Number: 832B95003, May, 1995. In any reissued CSO permit Chicago should specifically be required to meet that guidance on the implementation of all of the NMC, not just the pollution prevention plan guidance.

This permit does require compliance with the Nine Minimum Controls. See Special Condition 3, Paragraph 4 (a)-(i). Requirements to develop an enhanced nine minimum control plan by the City have been added to the Permit. See Special Condition 3, Paragraph 11. See Response 20.

22. The public is entitled to know what Chicago has done to address the USEPA's mandatory nine implementation controls and what IEPA will require Chicago to do under this permit.

See Responses 20 and 21.

23. The public has no information regarding whether Illinois EPA has done the required evaluation of the nine minimum controls as required by the federal CSO Control Policy (Policy). If the agency has not, it should. In any event, after the evaluation has been done, it should be reflected in NMC provisions that are tailored to address the Chicago CSO discharges. What Phase CSO Permit is this permit supposed to be and does this permit contain all of the requirements for that Phase pursuant to the Policy?

See Responses 20 and 21 regarding the Nine Minimum Controls.

The MWRDGC combined sewer system (CSS) is currently in Phase 2 permitting as described in Section IV.B.2 of the CSO Policy. In this CSS, the development and implementation of the LTCP is the responsibility of MWRDGC. MWRDGC is currently under a federal consent decree for the completion of TARP. See Consent Decree. Pursuant to Section IV.B.2 of the CSO Policy, all the required permit conditions for which the City of Chicago is responsible are included in this permit. The City of Chicago is responsible for continuing to comply with the Nine Minimum Controls.

24. The draft permit lists the nine minimum controls required by the 1994 CSO policy, but fails to specify how the City of Chicago will comply with these controls. The public is entitled to know what Chicago has done to address the U.S. EPA's mandatory nine implementation controls, and exactly what IEPA will require Chicago to do under this permit. The permit as is, simply lists the controls without providing Chicago a clear route to meet the controls. How would Chicago comply with the nine minimum controls as required in existing permits and how will the public be able to monitor Chicago's compliance with the nine minimum controls going forward?

See Responses 3, 20, and 21. In addition, requirements to develop an enhanced nine minimum control plan by the City have been added to the Permit in Special Condition 3, Paragraph 11.

25. The nine minimum controls have not been reviewed and upgraded by Chicago for many, many years. It's critical that this permit require a very detailed review and assessment of those nine minimum controls to upgrade them the way they should be.

The Illinois EPA approved the CSO Operational and Maintenance (O&M) Plan on February 13, 2013. The permit requires that the Pollution Prevention Plan, CSO (O&M) Plan, and Public Notification Plan be reviewed and revised, if needed. The

plans are to be presented to the general public at public information meetings for public comment. A requirement to provide copies of the final plans on the city's website has been added to the permit. Compliance with permit requirements is also determined by Illinois EPA through facility compliance inspections and monitoring report reviews. See Special Condition 3, Paragraphs 5-8, and 31. Additional requirements have been added to the permit since the public notice period including the evaluation of the effectiveness of the existing monitoring program, developing Nine Minimum Controls Enhancement Plan with public participation, evaluate Green Stormwater infrastructure, maximize flow to existing POTW, a solids floatable plan, and expand its public notification program. (See Special Condition 3)

26. Why does this permit allow federal Clean Water Act requirements to be addressed post-permit, allowing future monitoring and analysis? This includes the requirements for sensitive area analysis, the development of permittee's Pollution Prevention Plan, and its CSO Operation and Maintenance Plan, with the latter to embody all nine minimum controls requirements. If the permit requires a subsequent plan, how can the public effectively comment on it, as the plan will not be implemented until well after the comment period?

The Illinois EPA approved the CSO Operational and Maintenance (O&M) Plan on February 13, 2013. The permit requires that the Pollution Prevention Plan, CSO (O&M) Plan, and Public Notification Plan be reviewed and revised, if needed. The plans are to be presented to the general public at public information meetings for public comment.

The permit requires that an updated sensitive area analysis be completed within a year after the effective date of the permit. The IEPA will review the updated analysis and any relevant documentation to make a determination if any CSOs listed in the permit discharge to a sensitive area. Anyone knowing of primary contact activities occurring within these water segments should provide that information to the City and the Illinois EPA. See Special Condition 3, Paragraph 19.

27. How long does Chicago have to meet each control? The full length of the permit?

The City is already required to comply with the nine minimum controls and must do so as part of the Federal CSO Control Policy of 1994. The City has been required to meet them since the policy was implemented. They must also comply with the Nine Enhanced Minimum Controls. See Special Condition 3, Paragraph 11.

28. The LTCP and the Permit must spell out how the City is going to address each of the nine minimum controls (NMCs) required by the CSO policy.

The 1994 Federal CSO Policy does not require that the permit specify how the permittee will comply with the nine minimum controls, but rather that the permittee shall submit documentation demonstrating implementation of the nine minimum controls. See Combined Sewer Overflow Control Policy, 59 FR 18696 (1994); Special Condition 3, Paragraph 11, and Responses 20 and 21.

29. Public comment procedures should be spelled out in the permit that will allow public comment on and judicial review of the pollution prevention plans (PPP), the CSO operation and maintenance plans (CSO O&M plan) and the Public Notification Plan.

The Illinois EPA has revised the permit to clarify the procedures for public participation of revisions of these CSO plans. Illinois EPA encourages all interested parties to provide input to the Permittee through the public participation process for these plans. See Special Condition 3, Paragraph 31 . However, the CSO Policy does not contain provisions for independent judicial review of these plans.

Monitoring

30. Special Condition 3, Requirement No. 17 allows Chicago to monitor 72 of its CSO outfalls using MWRDGC's representative monitoring plan dated Feb. 1, 2013. Will Chicago monitor the remaining CSO outfalls not covered by the representative monitoring, or does Chicago intend to rely on MWRDGC monitoring these outfalls?

MWRDGC monitors and reports to Illinois EPA per the requirements detailed in MWRDGC's February 2013 CSO Representative Monitoring Plan (Monitoring Plan) for the 73 CSOs listed in Special Condition 3, Paragraph 8. MWRDGC also monitors the discharge from the outfalls 024, 057, 063, 067, 074, 084, 156, 178, 172, 194, and 226 on Page 2. The remaining outfalls are not monitored by MWRDGC or the City. However, they are represented by outfalls identified in the Monitoring Plan. The City will also be required to evaluate the effectiveness of the monitoring plan. See Special Condition 3, Paragraph 10. The CSO Policy allows monitoring a representative sample of overflow points for characterization of CSO discharges and their water quality impacts. See Combined Sewer Overflow Control Policy, 59 FR 18692 (1994).

31. Has Chicago begun to monitor the quantity and duration of CSOs? If not, when does IEPA believe the permit requires Chicago to begin monitoring the quantity and duration of CSOs?

Yes. The Permittee was and will continue to be required to monitor the quantity and duration of CSOs. See Response 30 and Special Condition 3, Paragraph 8.

32. Monitoring and reporting on CSOs is an absolutely critical element of a CSO control program. Without knowledge of where CSO outfalls are located, if and when they discharge, or the impacts of such discharges, a CSO control program is woefully

deficient because the IEPA and the general public will not be able to assess the successes or failures of that program. Under the conditions in the present NPDES permit, it is not possible to determine the frequency and estimated duration of each CSO discharge from each outfall. Such information is critically important to IEPA and to the general public. It is very important to note that IEPA has addressed such concerns in permits being issued to other CSO communities in the State of Illinois through a specific paragraph in those permits. Such a requirement should be in Chicago's permit as well.

CSO locations are specified on pages 3 – 6 of the permit. The permit requires that a public notification program be implemented that actively informs the affected public. See Special Condition 3, Paragraph 28. The program must include public notification of CSO occurrences and CSO impacts. See *Id.* The City must provide within their City website a computer link to MWRDGC's website location where public notification of CSO occurrences are posted, as well as providing the public the opportunity to sign up for automatic notification of a CSO occurrence. See *Id.*

33. The City is also allowed to rely on MWRDGC data to the extent it is available and the draft Permit does discuss City outfalls that the Draft permit states are now monitored by MWRDGC. However, MWRDGC is not required to do this monitoring and it is unclear where the public is to obtain information on Chicago CSOs that are monitored by MWRDGC.

MWRDGC is required to monitor 73 representative CSOs as described in MWRDGC's February 2013 CSO Representative Monitoring Plan. The requirements of this monitoring are also specified in MWRDGC's O'Brien NPDES Permit (IL0028088) Special Condition 8, Paragraph 13; MWRDGC's Calumet NPDES Permit (IL0028061) Special Condition 13, Paragraph 13; and MWRDGC's Stickney NPDES Permit (IL0028053) Special Condition 13, Paragraph 13.

MWRDGC maintains their CSO home page with current and historical sewer overflow information. See <http://geohub.mwr.org/pages/cso>. Additionally, the MWRDGC web site allows the public to sign up for e-mail notifications of a CSO event. The City must provide on the City's website a computer link to MWRDGC's website location. See Special Condition 3, Paragraph 28.

34. Will the City use information collected by MWRDGC to fill out the reports required by Special Condition 3 No. 14 or will IEPA and the public be expected to obtain the information from MWRDGC? Further, it is unclear whether CSOs are to be monitored that are not monitored by MWRDGC. Are the outfalls that are not monitored by MWRDGC required to be monitored by the City, or may the City rely on the notion that the CSOs monitored by the MWRDGC are "Representative?"

See Response 30.

35. The City's monitoring obligations (not MWRDGC's) must be spelled out in detail in this permit. The City naturally may use MWRDGC data to the extent it is available, but the permit must place ultimate responsibility for monitoring the City's CSOs and reporting that data to the public on the City, and the City must be responsible for the collection of additional data necessary to assure that its CSOs are properly characterized and that they do not cause or contribute to violations of water quality standards.

The permit includes monitoring and reporting requirements that are the responsibility of the City of Chicago. See Special Condition 4. For the eleven CSOs that require specific reporting (See Page 2 of Permit), MWRDGC monitors the discharges and the City submits a DMR to Illinois EPA's NetDMR portal. However, other monitoring results are submitted by MWRDGC. Upon completion of TARP if information becomes available which indicates the CSO discharge causes violations of applicable water quality standards or causes use impairment, the City and MWRDGC must develop and implement a revised LTCP to assess and abate impacts from the CSO discharges. See Consent Decree at 32; Special Condition 3, Paragraph 13, and Responses 2a and 30.

36. The required effluent monitoring of the CSO outfalls is insufficient and does not meet the minimum requirements for monitoring and discharge characterization required for implementation of the Nine Minimum Controls for the National CSO Control Policy or for compliance with Special Condition #3, No. 6(i). Monitoring of effluent quality should be required to ensure a complete characterization of CSO discharges, their impact on receiving waters, and the measurement of effectiveness of CSO abatement efforts.

Monitoring, pursuant to the CSO Policy is primarily for two purposes: 1) To characterize the CSS for the development, implementation, and if necessary, the refinement of CSO controls, including the LTCP; and 2) To provide information on which to base public notification of the discharges. See Combined Sewer Overflow Control Policy, 59 FR 18691(1994); and Responses 30 and 35.

The outfalls listed on Page 2 of the permit are required to be monitored for effluent quality as specified on page 2 of the permit and treatment requirements in Special Condition 3, Paragraphs 1 thru 4 are required of all CSO discharges. Additional requirements have been added to the permit since the public notice period including the evaluation of the effectiveness of the existing monitoring program, developing Nine Minimum Controls Enhancement Plan with public participation, evaluate Green Stormwater infrastructure, maximize flow to existing POTW, a solids floatable plan, and expand its public notification program. (See Special Condition 3)

37. Continuous ambient water quality monitoring of dissolved oxygen levels must be required of all the waters that may be affected by the discharges to determine the extent to which dissolved oxygen standards are violated by CSOs.

Continuous dissolved oxygen (DO) monitoring would indicate whether or not DO water quality standards are being met. However, that will not indicate what the cause or causes of those violations are.

The Federal Consent Decree for this CSS contains provisions to ensure that CSOs comply with water quality standards. See Federal Consent Decree at 7.

38. Monitoring should also be required to determine compliance with the narrative "unnatural sludge" and "offensive conditions" standards of 35 Ill. Adm. Code §§ 302.203 and 302.403 in order to characterize the CSOs and determine compliance with Special Condition 3 No. 10 and Special Condition 5. Prevention of violations of narrative standards is required by federal and state law.

TARP, the LTCP for this combined sewer system, is the compliance mechanism for both narrative and water quality standards. Upon completion of TARP if information becomes available which indicates the CSO discharges cause violations of applicable water quality standards or cause use impairment, the City and MWRDGC must implement a revised LTCP to assess and abate impacts from CSO discharges. See Response 35.

39. Discharge monitoring, reporting, and notification requirements should be enhanced and set forth in more detail.

Special Condition 3, Paragraph 6 requires the City to monitor the number of discharges per month and estimate the duration of the discharge from each outfall listed in Paragraph 8. The City relies on MWRDGC's data as allowed by Special Condition 3, Paragraph 7 to fulfill these monitoring and reporting requirements. Special Condition 3, Paragraph 5 requires the City to conduct a visual inspection of each outfall once per month during dry weather. See Responses 30 and 32.

40. Special Conditions #3 No. 11-7, #4 and #5: Effluent monitoring must be required to determine compliance with water quality standards for pathogens, dissolved oxygen, chloride, and other numeric standards.

See Response 35 and 38.

41. Monitoring and reporting of incidents relating to CSO impacts must be required.

Special Condition 3, Paragraph 28 requires a public notification program in accordance with Section II.B.8 of the Federal CSO Policy to be developed and implemented employing a process that actively informs the affected public. This public notification program may be developed in conjunction with MWRDGC. The program must include at a minimum public notification of CSO occurrences and CSO impacts, must include mass media and/or internet notification and provisions must be made to include modifications of the program when

necessary and notification to any additional affected public. The Permittee must provide within their city website a computer link to the MWRDGC's website location where the public notification of CSO occurrences are posted, as well as providing the public the opportunity to sign up for automatic notification of a CSO occurrence. The Permittee must provide signs at all CSO outfalls with appropriate language warning the general public and at points where these waters are used for primary contact recreation. The Permittee must inspect, maintain, and replace any damaged or missing CSO signs. The program must be presented to the general public at a public information meeting conducted by the Permittee annually during the term of the permit. Additional monitoring requirements have been added: See Special Condition 3, Paragraphs 10 and 18.

42. Another fundamental aspect of the CSO policy was the fact that CSO communities must really identify where their CSOs are, how much they discharge, what is the frequency of discharge, and the impacts those discharges have on the receiving streams.

Special Condition 3, Paragraph 28 requires the Permittee to provide within their city website a computer link to the MWRDGC's website location where the public notification of CSO occurrences are posted, as well as providing the public the opportunity to sign up for automatic notification of a CSO occurrence. The Permittee is required to provide signs at all CSO outfalls with appropriate language warning the general public and at points where these waters are used for primary contact recreation. Additional monitoring requirements have been included. See Special Condition 3, Paragraphs 10 and 18.

The permit contains the location of all CSOs authorized to discharge and contains reporting requirements for frequency and duration. Additionally, upon completion of TARP, if information becomes available which indicates the CSO discharge causes violations of applicable water quality standards or causes use impairment, the City and MWRDGC must develop and implement a revised LTCP to assess and abate impacts from the CSO discharges. See Consent Decree at 32, Page 2 of the Permit, and Special Condition 3, Paragraph 6.

43. It's unclear who is going to do monitoring. It's unclear who's legally responsible to do it.

For the 73 CSOs listed in Special Condition 3 Paragraph 8, MWRDGC monitors and reports to Illinois EPA per the requirements detailed in MWRDGC's CSO Representative Monitoring Plan. See <http://geohub.mwr.org/pages/cso>. MWRDGC also monitors the discharge from outfalls 024 and 178. The City relies on the monitoring completed by MWRDGC to fulfill the City's monitoring requirements. See Special Condition 3, Paragraph 3. As the Permittee, the City of Chicago is responsible for any monitoring required by this Permit. See Response 30.

44. The 2004 Compliance Inspection found that there were three, now two, outfalls selected by the IEPA for monitoring of CSO discharges, and that these are not representative of CSOs throughout the Chicago sewer system. What, if anything, has been done to correct this USEPA finding?

The three outfalls listed in the Compliance Investigation were identified for additional monitoring requirements. See page 23 of the Compliance Investigation. The third outfall, Discharge 232, has been sealed and can no longer discharge.

For the 73 CSOs listed in Special Condition 3, Paragraph 8 that have been determined to be representative of Chicago's 184 CSOs, MWRDGC monitors and reports to Illinois EPA per the requirements detailed in MWRDGC's CSO Representative Monitoring Plan. See <http://geohub.mwrdd.org/pages/cso>. The City relies on the monitoring completed by MWRDGC to fulfill the City's monitoring requirements.

45. Can you explain to me which outfalls the City is required to monitor?

See Response 30 and 43.

46. I am concerned with getting sewage in one's basement, and this can happen from CSOs as well as SSOs, and I would urge the permit writers to make sure that there's adequate monitoring of water in the basements, also.

Overflows during dry weather are prohibited. See Special Condition 3, Paragraph 4.

If a basement backup occurs, the City should be notified so that an investigation can be made. See Response 12.

47. The main question basically is, a gentleman had mentioned that 72 of the 184 off-chutes are being monitored. I was just wondering how those were chosen? Is one of them Bubbly Creek itself, not South Branch but Bubbly Creek?

The CSO Policy allows a representative sample of overflow points to be selected that is sufficient to allow characterization of CSO discharges and their water quality impacts and to facilitate evaluation of control plan alternatives. See Combined Sewer Overflow Control Policy, 59 FR 18692 (1994). Therefore, these 73 outfalls were chosen as representative of the system. Two of these CSOs discharge into the South Fork of the South Branch of the Chicago River, locally known as Bubbly Creek. These are Discharge No. 198, Iron Street (West) and Discharge No. 194, 35th Street (West). Special Condition 3, Paragraph 10 requires the Permittee to evaluate the effectiveness of their existing monitoring

plan within 24 months of the effective date of this permit. This evaluation will make recommendations on a long-term monitoring plan for the unmonitored outfalls.

48. And I guess, if individuals wanted to go and test water individually, could those results be used as a monitoring system for the MWRDGC, or would that not be taken into consideration as the effect of the CSOs?

The Illinois EPA will accept monitoring data that has been collected in accordance with approved quality assurance and quality control (QA/QC) procedures. These procedures are necessary to ensure that data collected is of known quality, useful and reliable.

49. USEPA noted in 2004 that Chicago was not monitoring the frequency and duration of its outfalls. The permit, however, does not contain a clear timetable for upgrading monitoring. Rather, the permit simply states that Chicago must establish "Monitoring to characterize impacts and efficiency of CSO controls. What does this wording specifically require Chicago to do, in IEPA's opinion?

The CSO Policy does not require that the frequency and duration be monitored at every CSO outfall or that each entity within a CSS perform each item contained within the Policy. The CSO Policy looks at the CSS as a whole and each item within the CSO Policy must be performed on the system as a whole. Monitoring is an example of an activity being performed jointly by MWRDGC and the City of Chicago. Special Condition 3, Paragraph 10 requires the Permittee to evaluate the effectiveness of their existing monitoring plan within 24 months of the effective date of this permit. The study will make recommendations on a long term monitoring plan for the unmonitored outfalls. See Response 30.

Prevention of Dry Weather Overflows

50. Does Chicago have a program for identifying dry weather overflows from its combined sewer system, and if so, where is it described? Has the City recorded any [dry weather] overflows?

Dry weather overflow (DWO) inspections are performed in conjunction with the City's current activities. Illinois EPA requires that at least once per year, every outfall will be visually inspected by the City, and that field notes will be recorded. See Special Condition 3, Paragraph 22. Any DWO must be noted and reported to IEPA See Special Condition 3, Paragraph 2. In addition, as part of MWRDGC's inspections of their telemetric tide gates, evidence of DWOs are identified. *Id.*

51. When did the City last report on DWOs?

The NPDES permit specifically prohibits DWOs. Any DWOs that do occur are reported to the Illinois EPA Compliance Section and Field Office. The City will also develop a plan for ensuring that any dry weather CSO Outfall discharges are promptly detected and steps are taken expeditiously to mitigate any recurrences. See Special Condition 3, Paragraph 2.

52. There are no specific requirements for Chicago to address dry weather flows, nor does it address the deficiencies in Chicago's inspection program identified by the USEPA Investigation.

a) The NPDES permit specifically prohibits DWOs. See Special Condition 3, Paragraph 4. The City of Chicago has designed and maintains the combined sewer system to prevent DWOs. All dry weather flows are directed to MWRDGC for conveyance to treatment facilities. As an added precaution, the TARP gates to Thornton Reservoir are 100% open and to McCook Reservoir are 10% open during dry weather to help prevent DWOs.

b) See below for the City of Chicago's responses to USEPA's list of deficiencies provided in its draft 2004 USEPA National Enforcement Investigations Center (NEIC) report.

I. Issue: NPDES Permit IL0045012, Special Condition 3, Paragraph 8: Chicago's revised CSO O&M plan, submitted in November 2002, was not completely current and did not reflect all system modifications and activities, including conditions at the time of the 2002 submittal.

City's Response: The City submitted a revised O&M Plan in 2006, which was approved by the IEPA in 2013. The City is required by the permit to update this plan to accurately reflect its current operational activities.

II. Issue: NPDES Permit IL0045012, Special Condition 3, Paragraph 6.a.:

Chicago was not fully implementing the minimum control for proper operation and maintenance programs for the sewer system and the CSOs. Chicago does not have a program to routinely clean sewers or to inspect CSO outfalls. Because outfall locations are not posted and outfalls are not routinely inspected, some of the outfalls were difficult to find during the NEIC inspections. Chicago does not maintain control or keep track of actual CSO discharge occurrences. The connections from Chicago's combined sewers to the MWRDGC interceptors and TARP system are owned and operated by the MWRDGC. The MWRDGC does not routinely communicate to Chicago the status of the TARP system and whether or not the connection to the TARP system is closed. Therefore, Chicago does not know when a CSO discharge may or may not be

occurring from any point in the Chicago sewer system. In addition, not all of Chicago's combined sewers have direct connections to the TARP system. In those instances with indirect TARP system connections, CSOs could occur if the interceptors become surcharged. Chicago does not know exactly how many combined sewers are not directly connected to the TARP system.

City's Response: The City employs several programs that are designed to prevent blockages, including regular sewer cleaning and televising, catch basin cleaning, street sweeping, and televising programs. Information regarding all connections to the MWRDGC system can be located via sewer atlas sheets (and GIS database) which are updated on a continual basis.

Since the publication of USEPA's NEIC report, signs have been posted at the CSOs. Per the requirements in MWRDGC's CSO permits, MWRDGC is committed to monitoring and reporting on Chicago's CSOs through its Collaboration agreement with the City. The City relies on the monitoring completed by MWRDGC to fulfill their monitoring requirements.

The City Chief Engineer of Sewers, the Deputy Commissioner, representatives at the Commissioner's office, and several Coordinating Engineers for the City are also signed up for MWRDGC's CSO notification program.

All of the City CSOs are directly connected to the TARP system.

III. Issue: NPDES Permit IL0045012, Special Condition 3, Paragraph 6.b.:
Chicago was not fully implementing the minimum control for maximum use of the collection system for storage. Chicago does not have a routine CSO outfall inspection program and does not have a routine sewer cleaning program. Only 30 percent of the Rain Blocker Program area has disconnected downspouts, reducing the program's effectiveness. The Rain Blocker Program is a catch basin flow restriction program implemented by Chicago to reduce or prevent basement flooding. The disconnection of roof downspouts that are directly connected to the sewer is vital to the success of the program.

City's Response: IEPA requires that at least once per year, every outfall will be visually inspected by the City, and that field notes will be recorded. Any DWO must be noted and reported to IEPA. In addition, as part of MWRDGC's inspections of their telemetric tide gates, evidence of DWOs are identified.

The City operates a cleaning and televising program for the combined sewer

system as well as employs several programs that are designed to prevent blockages and reduce the need to clean the sewers.

The Rain Blocker Program significantly reduces the rate of runoff into the City's sewers, even without downspout disconnection, since the number of existing downspouts already disconnected provides significant benefit. Although in many areas of the City it is not possible to get more than a 50% disconnection rate due to proximity of adjacent buildings and interior downspout designs, the restrictor component has been extremely effective in slowing the rate of stormwater inflow to the sewer system, thus reducing the number and impacts of CSOs.

While the City understands the benefit of downspout disconnection, due to variable site conditions, it is not feasible to promote downspout disconnection in all areas such as the Central Business District. Because it is a voluntary program, the City aggressively promoted downspout disconnection by stating that "downspout disconnection is vital to the success of the Rain Blocker Program." However, the Rain Blocker Program still provides benefits with or without considering downspout disconnection.

IV. Issue: NPDES Permit IL0045012, Special Condition 3, Paragraph 6.d:

Chicago was not fully implementing the minimum control for prohibition of CSOs during dry weather. Chicago does not have any system for identifying dry weather overflows (DWOs). Chicago has no routine CSO outfall inspection program and no telemetric equipment to identify DWOs should they occur. Chicago does not have a routine sewer cleaning program to prevent blockages that may result in DWOs.

City's Response: The City and MWRDGC signed an O&M Collaboration Agreement in June 2006 to formalize responsibilities. The agreement states that MWRDGC "will continue to provide monitoring and reporting as specified in the EPA NPDES permits. This includes the monitoring of representative outfalls for reporting duration and frequency of combined overflows to receiving waterways." MWRDGC operates telemetric tide gate monitors at 73 CSOs within the City. The tide gate monitors identify whether each gate is open or closed, and are used to determine the frequency and duration of a CSO event. This information is then reported to IEPA per the requirements detailed in MWRDGC's CSO permits.

IEPA requires that at least once per year, every outfall is visually inspected by the City. Any DWO must be noted and reported to IEPA. In addition, as part of

MWRDGC's inspections of their telemetric tide gates, evidence of DWOs are identified.

The City operates a cleaning and televising program for the combined sewer system as well as employs several programs that are designed to prevent blockages and reduce the need to clean the sewers.

V. Issue: NPDES Permit IL0045012, Special Condition 3, Paragraph 6.e.:

Chicago was not fully implementing the minimum control for control of solids and floatable materials in CSOs. Other than operating a river boat skimmer on limited sections of receiving waters, Chicago does not provide any treatment of CSO discharges.

City's Response: MWRDGC's TARP is designed as the Long-Term Control Plan for Chicago's CSOs. As such, all of the City's CSO outfalls are connected to the TARP system. The City employs strategies to minimize CSOs including: regular cleaning of the sewers and ancillary structures, sewer and structure lining and replacement programs, mandatory stormwater detention policies for regulated developments, installation of flow restrictors, encouragement of downspout disconnection, and green infrastructure design. These measures reduce the likelihood of CSOs and alleviate the need for treatment. See Response 20.

Skimmer boats are considered a last resort to floatables control in the CSO O&M Plan. Use of boats is in coordination with MWRDGC, per their Floatables Control Plan, to assure that they are most effectively utilized to cover a CSO event. The Permittee is also required to buy two additional skimmer boats within 24 months of the effective date of this permit. See Special Condition 3, Paragraph 25.

VI. Issue: NPDES Permit IL0045012, Special Condition 3, Paragraph 6:

Chicago submitted their pollution prevention plan to IEPA on December 17, 2003, exceeding the 18-month deadline requirement (December 1, 2003). Additionally, the pollution prevention plan was not fully implemented within the 18-month deadline.

City's Response: The City's pollution prevention plan was submitted as part of its CSO O&M Plan in December 2006. The plan was approved in 2013 and has been implemented.

VII. Issue: NPDES Permit IL0045012, Special Condition 3, Paragraph 6.g.:

Chicago was not fully implementing the minimum control for public notification to ensure that citizens receive adequate information regarding CSO occurrences and

CSO impacts. Chicago has not been proactive in coordinating and establishing their public notification program with MWRDGC. Chicago submitted a letter to IEPA on November 25, 2002 regarding Chicago's public notification program; however, Chicago did not submit a copy of the public notification program they plan to use. The November 25, 2002 letter indicates that Chicago plans on coordinating their program with the MWRDGC, but does not describe the proposed public notification program in detail.

City's Response: The City and MWRDGC signed an O&M Collaboration Agreement in June 2006 to formalize responsibilities. The agreement stated that the City and MWRDGC would share website links.

The MWRDGC maintains their CSO Home page with current and historical sewer overflow information (<http://geohub.mwr.org/pages/cso>). Additionally, the MWRDGC web site allows the public to sign up for email notification of a CSO event. The City must provide within their City website a computer link to MWRDGC's website location.

VIII. Issue: NPDES Permit IL0045012, Special Condition 3, Paragraph 7, Sensitive Area Considerations: Sensitive area documentation submitted by Chicago does not indicate which outfalls do not discharge to sensitive areas and is incomplete. Chicago did not evaluate their outfalls discharging to general use areas along the Calumet and Des Plaines Rivers.

City's Response: The City submitted an updated Sensitive Area Consideration Report dated March 25, 2003. The City did not submit documentation for the outfalls along the Calumet and Des Plaines Rivers, as the MWRDGC had already submitted this documentation. Per the requirements stated in the Permit, The City must submit within one year of the effective date of the Permit two copies of documentation indicating which of the outfalls discharging to primary contact recreation or general use waters listed in Special Condition 3 do not discharge to sensitive areas.

IX. Issue: NPDES Permit IL0045012, Special Condition 3, Paragraph 11: Chicago failed to monitor the frequency and duration of each discharge from each outfall on a monthly basis.

City's Response: MWRDGC monitors representative outfalls for duration and frequency of CSO discharges per the requirements in MWRDGC's CSO permits (allowed by Paragraph 11 of the City's NPDES permit). Monitoring results are

recorded for each calendar month and submitted to the IEPA on a quarterly basis.

X. Issue: NPDES Permit IL0045012, Special Condition 4: Chicago failed to submit DMRs for monitoring conducted for the months of June, July, August, and September 2002.

City's Response: The City currently submits DMRs to the IEPA's NetDMR portal prior to the 15th of each month for outfalls 024 – Forrest Glen Ave, and 178 – Albany Ave.

Control of Solids and Floatables

53. Chicago's CSOs receive absolutely no treatment before being discharged. Many users of the CAWS have reported seeing floating debris and other materials after every wet weather event. Clearly, Chicago is violating Special Condition [3, Paragraph 3] during their CSO discharges. Chicago should be required to implement measures to control solid and floatable materials discharged from its CSOs.

Both the City of Chicago and MWRDGC are employing measures to reduce floatables discharged through CSOs including street sweeping and solids collection. A requirement to maintain and operate these skimmer boats has been added to Special Condition 3, Paragraph 6. Use of boats by the City is in coordination with MWRDGC, per their Floatables Control Plan, to assure that they are most effectively utilized to cover a CSO event. Special Condition 3 Paragraph 21(e) now requires the development of a Solid and Floatables Plan. The Permittee is also now required to buy two additional skimmer boats. See Response 9 and See Special Condition 3, Paragraph 25.

54. As of 2004, Chicago was planning to use a riverboat skimmer to treat CSOs. Is the riverboat skimmer still part of Chicago's plan?

See Response 53.

55. Skimmer boats adequate to address the Chicago CSOs should be specifically required in the permit to implement the CSO policy minimum control regarding control of solids and floatable materials in CSOs. The final permit should require the City to analyze the number of skimmer boats needed to address the City's CSOs.

The use of skimmer boats is not the long term solution for floatables. Use of boats by the City is in coordination with MWRDGC per their Floatables Control Plan. See Response 9. In addition, the Pollution Prevention Plan must be

presented to the public annually and a summary of all significant issues raised by the public along with the City's response must be submitted to the Illinois EPA. See Special Condition 3, Paragraph 26 and Response 53.

Maximization of Collection System for Storage and of Flow to POTW

56. Increased Conveyance Capacity should be studied to reduce the City's CSO and improve Bubbly Creek.

See Response 57.

57. Chicago collection system is not operated to optimize transport of wastewater flows and to minimize CSO discharges. In a reissued permit, Chicago should be required to develop the appropriate plan that will translate the CIP projections into specific required actions to be accomplished during the life of the reissued permit in the following areas: replacement of deteriorated or undersized sewers based upon physical inspection, maintenance and repair records and hydraulic capacity; sewer lining and rehabilitation of large diameter sewers; rebuilding or relining sewer mains; relining sewer structures, and upgrading four of the original steam powered pumping stations. Such a permit condition will support the requirement to "optimize transport of wastewater flows and to minimize CSO discharges."

The City has indicated that the collection system is sized and operated to optimize transport of wastewaters flows and to minimize CSO discharges. Sewers are designed to be self cleaning with a velocity of at least 3 feet per second or more. Routine inspection and cleaning operations of pipes, manholes, and catch basins are performed.

The City has an ongoing sewer lining program to repair damaged, leaking, and antiquated sewer pipes and actively investigates complaints about basement backups, flooding, and/or sewer overflows. The City investigates the issues and determines the cause of the problem, the solution, and the repair priority Based on age, size, material, and soil type, known problematic areas are also repaired through sewer lining. Approximately 496 miles of sewers have been lined since 2012.

The City maintains a sewer replacement program as well. Through the use of hydraulic capacity analysis, undersized sewers are identified and replaced with larger diameter pipes. Additionally, while completing inspections prior to performing lining, sewers that are too deteriorated for lining are recommended for replacement. Through these projects, almost 210 miles of sewers have been replaced since 2012.

To maintain the integrity of sewer structures, the City routinely rehabilitates manholes and catch basins throughout the system. Known problematic areas will have their structures lined as separate projects, and structures adjacent to ongoing sewer main projects will also be lined. Since 2012, approximately 14,000 structures have been lined each year. See City of Chicago, Dept of Water Management letter dated June 21, 2017 to Jaime Rabins.

Review of Sewer Use Ordinance/Pretreatment Control

58. (1) Paragraph 9 is a very important permit condition to assure that all publicly owned systems with sewers tributary to the Permittee's collection system have effective sewer use ordinances that meet the specific provisions delineated in this Special Condition. However, it is not clear what is expected of the Permittee in subparagraph 9f. As part of "assure" is the Permittee expected to review the procedures in place for all publicly owned systems tributary to the Permittee's?; (2) What is the criteria for the review-item 9a-f?; (3) If deficiencies are found what is the Permittee expected to do to correct the deficiencies?; (4) How does the last paragraph in Special Condition 9 apply to the publicly owned systems tributary to the Permittee's collection system with respect to the 150 gpcpd and the 100 gpcpd? Is the Permittee expected to enforce those requirements and if so, how does the Permittee do that?; (5) Is the Permittee expected to report its findings to IEPA and the general public after it completes the review to "assure" procedures are in place?

(1) Special Condition 3, Paragraph 29(f), requires the City of Chicago to assure that the owners of all publicly owned systems with sewers tributary to the Permittee's collection system have procedures in place adequate to ensure that the objectives, mechanisms, and specific procedures given in Special Condition 3, Paragraph 22 (Operational and Maintenance Plans) are achieved. Within 6 months of the effective date of this permit, the Permittee shall certify the sewer ordinance requirements are met. See Special Condition 3, Paragraph 29. (2) The City of Chicago is required to review and where necessary, modify its existing sewer use ordinance to ensure it contains provisions addressing the conditions in Special Condition 3, Paragraph 29 (a) – (f). Sewer use ordinances are also reviewed during field office inspections to ensure that the provisions are met.

(3) The City must enforce best management practices to correct any deficiencies and certify to the Agency that these items are in place. See Special Condition 3, Paragraph 29. (4) In the event there is excessive infiltration and inflow (I/I) (any wet weather flows exceeding 150 gpcpd 24-hour average with peak flow not to exceed 100 gpcpd times an allowable peaking factor in accordance with the Illinois Recommended Standards for Sewage Treatment Works) in the separate sewer system that causes or contributes to basement back-ups and/or sanitary sewer overflows, the City of Chicago would be required to implement measures in an effort to reduce the excessive infiltration and inflow. Such additional

remedies may include sewer system evaluation studies, sewer rehabilitation or replacement, inflow source removal, and restrictions on the issuance of additional sewer connection permits. See Special Condition 3, Paragraph 29. (5) The City of Chicago is required to submit copies of the sewer use ordinance(s) to the Illinois EPA upon written request See Special Condition 3, Paragraph 29.

59. Special Condition 3, Item 9 states: “The Permittee shall enforce the applicable sewer use ordinances.” Does this statement mean the Permittee shall enforce the sewer use ordinances in publicly owned systems tributary to the Permittee’s collection system or just its own sewer use ordinances?

The permit requires that the City ensure that certain operational and maintenance procedures are in place in municipalities whose sewers are tributary to the City of Chicago. Because these flows are tributary to the City’s system, the City is required to regulate what goes into their system.

60. Reducing infiltration/inflow (I/I) into the sanitary and combined sewer systems is a very important element of reducing the frequency, duration and quantity of CSOs to the CAWS. Some modifications and/or additions are needed to the language if the objectives as stated in items 9 a-f are to be achieved. A critical omission is a review and comment on the sewer use ordinances by IEPA and the general public to ensure the sewer use ordinances will achieve the six items delineated in subsections 9 a-f of the permit.

Illinois EPA has not specifically provided a separate public participation process through this permit pertaining to the sewer use ordinances. The revision or enactment of a local ordinance includes provisions for public participation and Illinois EPA is not establishing a second public participation process. Ordinances for the City of Chicago can be found at the American Legal website: <https://codelibrary.amlegal.com/codes/chicago/latest/overview>. Illinois EPA intends to review how these provisions are enforced through compliance inspections performed by the field office. Additional requirements for public participation have been added to the permit. See Special Condition 3, Paragraph 11.

61. Because it should be known whether the Sewer Use Ordinance mentioned in Special Condition 3 Item 9 exists, the permit should specify what should be done. It is unclear from the Fact Sheet and Draft Permit what the current situation is with regard to the ordinance. IEPA should determine now whether the sewer use ordinance has been enacted and whether it is appropriate and amend the special condition language appropriately. The agency should determine this and set forth appropriate conditions in light of known facts instead of generic requirements.

The Sewer Use Stormwater Management Ordinances are enacted and can be found in the City of Chicago Municipal Code Chapter 11-16: Public Sewers and Drains and Chapter 11-18: Stormwater Management. The permit has been revised to remove the language regarding if no ordinance exists.

The Sewer Use Ordinances cover the regulation and care of sewers, sewer structures and drains, permits, and inspections; while the Stormwater Ordinance covers the requirements and process for developing and submitting a stormwater management plan for new development.

62. Why doesn't the IEPA just require the city to straight out evaluate and detail its efforts to control infiltration and inflow into its sewer system on an annual basis in this permit? Why does this Special Condition say the permit may be modified to include requirements to continually evaluate controls of infiltration and inflow? What does Special Condition 6 give you in addition to that?

Through its cleaning and televising programs, the City identifies and addresses issues in areas where infiltration/inflow (I/I) can occur. In addition, the City evaluates and identifies candidates for its sewer mains and structures lining program based upon things as structural and soil conditions. Sewer lining is recognized as a cost-effective means of rehabilitating sewers and preventing I/I. To date, approximately 250 miles of sewer mains and more than 70,000 sewer structures have been lined. See City of Chicago, Dept of Water Management letter dated June 21, 2017 to Jaime Rabins. There are added requirements to maximize flow to the treatment plant including inspection of the collection system to identify deficiencies and replacement of undersized sewer. See Special Condition 3, Paragraph 16.

Operational and Maintenance Plan, Pollution Prevention Plan, CSO Notification Plan and Public Participation

63. Is the city required to publish notification of the O&M plan? We request that a public review and comment period should be included to review the operations and maintenance plan and the pollution prevention plan that are part of this permit. No permittee should be allowed to make unilateral, substantive changes to O&M or Pollution Prevention plans that are part of a permit without public comment. The City should be required to provide a public review and comment process if changes are made to these plans during the life of the permit that affect the conditions of the permit. Special condition #3 No. 8 and No. 18 should be rewritten to assure that there is an opportunity for public comment on the PPP, the Public Notification Plan and CSO O&M plans.

The pollution prevention plan, CSO O&M plan, and public notification plans are all required to be presented at public information meetings. The final permit has

been revised to require the pollution prevention plan and public notification plan be presented annually to the public. The CSO O&M plan must be presented to the public within nine (9) months of the effective date or within nine (9) months of the CSO system being modified. The final permit has been revised to require that these plans be made available to the public on their website. Illinois EPA encourages all interested parties to provide input to the Permittee through the public participation process for these plans. See Special Condition 3, Paragraphs 6, 8, and 18.

64. How will the public participate in the implementation of a pollution prevention plan? How will the IEPA force the plan to the public for input? And how will the overall plan and specific components such as the operational and maintenance, and notification of CSO events involve the public?

See Response 63.

Operational and Maintenance Plan

65. Special Condition 3, Requirement No. 8 requires the City's CSO O&M plan to be consistent with the MWRDGC CSO O&M plan. What specific O&M measures must the City undertake that go beyond MWRDGC's obligations in its O&M plan? Are there any minimum requirements that you are specifying for Chicago to include in its O&M plan that goes beyond which is in MWRDGC's O&M plan?

The intent of this Special Condition is to ensure that the O&M plan for the City is compatible with MWRDGC's O&M plan. In June 2006 MWRDGC and the City signed an O&M Collaborative Agreement to reduce duplicative efforts in the management of CSOs. See MWRDDGC & City of Chicago O&M Collaboration Agreement Appendix A, 2006. The City has further indicated that the City's CSO O&M plan is consistent with MWRDGC's Collection System O&M Manual. See City of Chicago, Dept. of Water Management letter dated June 21, 2017 to Jaime Rabins. Illinois EPA has revised the wording of the permit to reference this agreement.

66. The draft permit requires Chicago to review and revise the O&M Plan if needed. However, as written the Permittee is not given a date to complete and report on its annual review of the O&M Plan. Without a date Illinois EPA, USEPA and the general public have no way of knowing the details of the CSO O&M plan. In addition, the general public is not afforded an opportunity to review and comment on the O&M Plan, which is unacceptable.

See Response 63.

67. I've reviewed Appendix A of the Combined Sewers Overflow Guidance for Permit Writers, and in that appendix are examples of CSO permit conditions. One example included an implementation schedule for CSO controls. So it was suggested in the permit, you can list activities that were going to be completed and their completion dates. Couldn't something like that be included in this permit to reflect the specifics of the city's aggressive Capital Improvement Plan (CIP) which goes through 2022 to replace and reline sewers?

The Capital Improvement Plan CIP is independent from the NPDES permit.

The City regularly reviews and evaluates the combined sewer system to optimize transport and storage. These evaluations are part of a continuous maintenance program involving multiple activities throughout the City, including but not limited to: cleaning and televising, relining, and repair and replacement of sewers. See City of Chicago, Dept. of Water Management letter dated June 21, 2017 to Jaime Rabins.

68. If there are measures in the O&M plan, is there a process where you go back and review those and make sure that they are being complied with after the initial approval of the plan?

CSO O&M plans are reviewed during field office inspections to ensure that the provisions are met. See Special Condition 3, Paragraph 24.

69. Is the City's Operational and Maintenance Plan current and reflective of system modifications? Why was this plan last revised in 2006 but not approved by IEPA until 2013? How will IEPA ensure that future delays do not occur? What is the process required for the city to revise or make changes to this plan? In the past, the city has made changes to the plan without notifying or receiving approval from IEPA and without notifying or involving the public. How will the requirements in this permit prevent this from happening in the future?

The City's CSO O&M plan is a living document that is updated as needed to reflect the City's current operations and practices. The City must present its CSO O&M plan to the general public at a public information meeting within nine (9) months of the effective date of the Permit or within nine (9) months of the CSO system being modified. Illinois EPA approval is not required to implement the plan. The permit requires that the City actively involve the affected communities before making revisions. Any revisions must be submitted to Illinois EPA and finalized documents must be available on the City's website. See Special Condition 3, Paragraph 27.

Pollution Prevention Plan

70. This draft permit calls for pollution prevention, but shows no mechanism for holding the city accountable to its pollution prevention plan. The draft permit, likewise, fails to show how the public can monitor the implementation of the pollution prevention plan.

See Response 63.

Public Notice of CSO Occurrences and Impacts

71. The public notification program is critical to keeping the public informed on the implementation of Chicago's CSO control program. Because Chicago does not operate TARP, they are not aware of when TARP is closed and therefore do not know when CSOs will occur from their own outfalls. Therefore, Chicago relies on MWRDGC to notify the public when CSOs occur. The permit should reflect this reality and clearly delineate responsibilities for informing the public of CSO occurrences and their implications.

Special Condition 3, Paragraph 28 requires the City to have a public notification program. The City must provide a web link to the MWRDGC website where the public notification of CSO occurrences are posted. See Paragraph 28(d). MWRDGC maintains the CSO Home page which allows the public to sign up for e-mail notifications of a CSO event. This site also contains current and historical sewer overflow information. See <http://geohub.mwrld.org/pages/cso>. Additional requirements for public notification have been added to the permit. See Section 3, Paragraph 28 (f) and (g).

72. Special Condition 3, Requirement No. 18 requires Chicago to develop a public notification program that may be developed in conjunction with MWRDGC. How will Chicago notify the public of dangers from CSOs beyond the public notification currently being done by MWRDGC?

Special Condition 3, Paragraph 28, requires the City to have a public notification program with input from the public. The City is required to provide signs at all CSO outfalls. These signs also provide information on the City's 311 system, which serves as a CSO hotline. Additional requirements for public notification have been added to the permit. These include holding city wide public information meetings and develop a CSO discharge notification system. See Section 3, Paragraph 28 (f) and (g).

73. The permit must assure that the public receives adequate notification of CSO occurrences and CSO impacts. The particulars of what will be announced and how it will be announced should be set forth in detail in the permit. IEPA should determine what has been done to implement the public notification requirement of Section II.B.8 of the CSO Policy, determine what remains to be done and require specific steps be taken to ensure that the public receives adequate notification of CSO occurrences and CSO impacts. Given the City of Chicago's increasing investment in riverfront

amenities, and the use of the CAWS for recreational activities, public notification plays an increasingly important role.

See Response 71.

74. I get a notice from the MWRDGC on a text sometimes in the middle of the night, much to my wife's chagrin, that there has been a CSO discharge, and it tells me generally what part of the river has been impacted by that, but if I am on the river, if I am planning to go to the river, and I don't have myself signed up for that morning, how would I know whether there's any risk involved or not?

See Response 71.

75. In my view, the MWRDGC has spent a tremendous amount of resources and money predicting the weather. They know when significant rain events are going to come. They know they can create an algorithm that will tell them if we are predicted to have two inches of rain, that there's going to be a CSO. They can provide a warning system that way to us, which we have to sign up for. But imagine who would sign up for it? Chicago Canoe and Kayak, Chicago Kayak, water riders, Urban Kayak. All of those vendors would want to know when the water is going to be unsafe for their customers.

At this time, a warning system does not currently exist. If a warning system is developed, future permits may incorporate public notifications of potential CSO discharges.

76. Does the IEPA require MWRDGC to notify the City of Chicago when TARP is closed? How is the City of Chicago supposed to know when CSOs occur? Is there a system required for MWRDGC to communicate to the city when the TARP tunnel will be closed and there will be CSOs from the City of Chicago outfalls?

MWRDGC is currently not required to notify the City when TARP is closed. However, the City is notified of CSOs by email through MWRDGC's CSO email notification system. The City's Chief Engineer of Sewers, the Deputy Commissioner, representatives at the Commissioner's office, and several coordinating engineers for the city are signed up for MWRDGC's CSO notification program. See City of Chicago, Dept. of Water Management letter dated June 21, 2017 to Jaime Rabins; and Special Condition 3, Paragraph 7.

77. How does the City of Chicago notify IEPA and the general public when there are CSOs from discharge points, and how are the responsibilities of the city and of MWRDGC dealing in regards to public notification? And then as far as the public notification requirement with the permit, that does still specifically apply to the City of Chicago?

See Responses 71 and 72.

78. And then there are requirements in the permit that the city provides a link on their website to the MWRDGC locations where public notification of CSO occurrences are posted, and also that the city provide the public opportunity to sign up for notification of CSO occurrences. And so, my question for you is, how long will the city be given to complete these requirements?

The City currently and will continue to post CSO occurrences on their website: https://www.chicago.gov/city/en/depts/water/provdrs/engineer/svcs/Combined_Sewer_Overflows.html. See Special Condition 3, Paragraph 28.

79. How does IEPA ensure that the city's website and other methods of public information and notification that it describes in the plan [are implemented]? Will there be additional requirements added to the draft permit as it is or are those already included?

See Response 78. The field office and staff in the Illinois EPA's Compliance Assurance Section review the records that the City is required to keep to ensure compliance with the Permit. See Special Condition 3, Paragraph 28.

80. Is the city required to maintain a log of CSO occurrences and to publish notification plan?

Public notification of CSO occurrences is required by the permit. See Special Condition 3, Paragraph 28. However, maintaining a log of CSO occurrences is not a specific requirement in the permit. MWRDGC does include current and historical overflow information on their website. See <http://geohub.mwrdd.org/pages/cso>. The final permit has also been revised to require that the public notification plan be made available to the public on their website. See Special Condition 3, Paragraph 28.

81. Can you provide an example of what will actually constitute adequate information so the current map system is sent to MWRDGC and that's their way of letting everyone know. Is that enough? Are you requiring Chicago to do more than that? I mean, would it be enough to just say this waterway may be in the CSO, or do you have to say here's the outfall, there's a CSO here?

See Responses 71 and 72.

82. What is meant by notification of a CSO? What would minimum requirements be? Notification of what? Notification that there is a CSO hiding somewhere? Or that it's going to be replaced?

"Notification of a CSO" is a public notification that a combined sewer overflow event has occurred. The minimum requirements for CSO notification are identified in the permit. See Special Condition 3, Paragraph 28.

83. How will Chicago notify the public of dangers from CSOs beyond the public notification that is currently being done by MWRDGC?

The City must provide a link to MWRDGC's website, which provides information about CSOs and includes an option to sign up for email and/or text notifications. The requirements added since the public notice include a CSO discharge notification system and posting of documents on their website. See Special Condition 3, Paragraph 28; and Responses 71 and 72.

84. The language here, it says mass media and/or Internet notification. So that would imply that one or the other is acceptable. Why not require both, mass media and Internet notification?

The Permittee is required to provide public notification of CSO occurrences. However, the permit provides the permittee some flexibility to determine which medium is the most appropriate mechanism for public notification. See Special Condition 3, Paragraph 28.

LONG-TERM CONTROL PLAN/TARP/WATER QUALITY ISSUES

85. What does the City do to treat CSO discharges and prevent violations of applicable water quality standards? Development of a plan to address violations of water quality standards should be made an immediate requirement of this permit under a revised Special Condition #3 No. 10.

MWRDGC's TARP is the LTCP for Chicago's CSOs. See Illinois EPA letter dated June 28, 1995 to Metropolitan Water Reclamation District of Great Chicago. All known CSO outfalls in the City of Chicago are connected to the TARP system. The goal of a CSO LTCP is to reduce CSO discharges and to ensure that when CSO discharges occur, that they do not cause violations of water quality standards. See CSP Policy 18688. The City employs strategies to minimize CSOs including: regular cleaning of the sewers and ancillary structures, sewer and structure lining and replacement programs, mandatory stormwater detention policies for regulated developments, installation of flow restrictors, encouragement of downspout disconnection, and green infrastructure design. Pollution prevention controls that are also integrated into the City's CSO O&M Plan include: BMP design review elements, education (both public and internal), inspections and response for dry weather flow, street cleaning, and leaf removal. See City of Chicago, Dept of Water Management letter dated June 21, 2017 to Jaime Rabins.

Upon completion of TARP construction and post-construction monitoring, MWRDGC is required to submit a post construction monitoring report evaluating the impact to water quality by discharges from CSOs. If additional controls are necessary, the City must develop and implement a plan to assess and abate impacts from their CSO discharges. This plan may be developed in conjunction

with MWRDGC. See City of Chicago, Dept of Water Management letter dated June 21, 2017 to Jaime Rabins.

86. Unfortunately, there is no requirement for the Permittee to assess whether its CSO discharges are actually complying with water quality standards. The permittee is only required to act "Should information become available..."

TARP, the LTCP for this combined sewer system, is the compliance mechanism for both narrative and numeric water quality standards. See Consent Decree. Ambient stream monitoring is currently being conducted by MWRDGC. See *Id.* MWRDGC is also required to address any violations of water quality standards from CSOs before the federal consent decree can be terminated. See *Id.*

87. Special Condition 3, Requirement No. 10 requires the City to develop and implement a plan to assess and abate impacts from CSO discharges upon Illinois EPA notification. What indicators will be used by IEPA to decide whether to trigger this requirement?

MWRDGC's TARP is the LTCP for Chicago's CSOs. See Illinois EPA letter dated June 28, 1995 to Metropolitan Water Reclamation District of Great Chicago; and Response 2(b). Upon completion of construction and post-construction monitoring, MWRDGC is required to submit a post construction monitoring report evaluating the impact to water quality by discharges from CSOs. See Consent Decree at 32. The post construction monitoring data will be compared to water quality standards to see if they are being met. If additional controls are necessary, the City must develop and implement a plan to assess and abate impacts from their CSO discharges. See Special Condition 3, Paragraph 10. This plan may be developed in conjunction with MWRDGC. See *Id.*

88. Chicago must anticipate the shortfalls of TARP by taking additional measures to address its sewage overflow problems. This permit must clearly explain the additional measures the City will take to address this threat.

The City employs strategies to minimize CSOs including: regular cleaning of the sewers and ancillary structures, sewer and structure lining and replacement programs, mandatory stormwater detention policies for regulated developments, installation of flow restrictors, encouragement of downspout disconnection, and green infrastructure design. See City of Chicago, Dept of Water Management letter dated June 21, 2017 to Jaime Rabins. In addition, the permit now requires an enhanced nine minimum control plan to address overflows. See Special Condition 3, Paragraph 11.

89. Does Chicago have any discharges, any CSO outfalls that are not connected to TARP? If so, those discharges go directly to the river and have no ability to go into TARP.

All known CSO outfalls in the City of Chicago are connected to the TARP system. See City of Chicago, Dept of Water Management letter dated June 21, 2017 to Jaime Rabins.

90. There are technologies available to treat CSOs and requirements for a thorough investigation of these options should be included in this permit.

Reviewing alternatives for CSO treatment is part of a CSO LTCP. See Combined Sewer Overflow Control Policy, 59 FR 18692 (1994). MWRDGC's TARP is the LTCP for Chicago's CSOs. See Illinois EPA letter dated June 28, 1995 to Metropolitan Water Reclamation District of Great Chicago; and Response 2(b). Additional requirements have been added to the permit since the public notice period including the evaluation of the effectiveness of the existing monitoring program, developing Nine Minimum Controls Enhancement Plan with public participation, evaluate Green Stormwater infrastructure, maximize flow to existing POTW, a solids floatable plan, and expand its public notification program. (See Special Condition 3).

91. Does the state consider TARP to be the long-term control plan for the City of Chicago CSOs? If so, what evidence does the state have that TARP will solve the city's CSOs? It would seem especially critical to identify whether or not TARP is the LTCP for the city, given unequivocal statement by U.S. EPA and Illinois EPA that the requirements in the consent decree associated with TARP implementation apply only to MWRDGC's outfalls, not the city's. How can the state consider TARP to be the city's long-term control plan when it has expressly taken the position that MWRDGC has no responsibility to correct CSOs it does not own, including the city's?

Yes, MWRDGC's TARP is the LTCP for the City of Chicago CSOs. See Illinois EPA letter dated June 28, 1995 to Metropolitan Water Reclamation District of Great Chicago; and Response 2(b). The purpose of the plan was to create a cost-effective solution to the flooding and water quality problems caused by overflows from combined sewer systems of numerous municipalities in metropolitan Chicago. See Consent Decree; and Metropolitan Water Reclamation District of Greater Chicago Appendix A, Description of TARP. MWRDGC was designated as the implementation agency because of its regional authority, responsibility for wastewater treatment and jurisdiction over urban drainage. *Id.* The U.S. Court of Appeals affirmed that the Consent Decree is reasonable in light of the current infrastructure, the costs of doing things differently and the limits of knowledge about what will happen when the system is completed. See *United States v. Metro. Water Reclamation Dist. of Greater Chicago*, 792 F.3d 821, 828 (7th Cir. 2015). The CSO Policy does not require that every municipality develop a separate Long Term Control Plan. See Combined Sewer Overflow Control Policy, 59 FR 18689. (1994). The CSO Policy recognizes CSOs as a whole and the necessary flexibility to coordinate planning, selection, design, and implementation of CSO management practices and control to meet the requirements of the Clean Water Act. *Id.*

92. Chicago combined sewers can be discharged to the TARP system. Unfortunately, TARP has many serious operational problems. Because of those key words, known operational problems, on many occasions TARP shuts down its tunnels. That means Chicago CSOs are discharged raw into the rivers.

The Mainstream/Des Plaines tunnels do fill to capacity during severe storms. MWRDGC does not regularly “shut down” the tunnels when empty. One exception is during construction activities related to connecting the tunnels to the McCook Reservoir. However, MWRDGC tries to schedule these activities in order to maximize flow to the treatment plant. Once TARP is fully operational in 2029, these “shut downs” should be significantly reduced. See email from Fay Costa to Kaushal Desai dated Tuesday, October 31, 2017 8:30 AM.

93. So I looked at both the city's existing permit and the draft new permit. If you look on Page 3 of both the existing permit and the draft permit, in that first paragraph under Authorization of Combined Sewer and Treatment Plant Discharges, there's a sentence that's in the existing permit, but it's no longer in the draft permit, and I wanted to know why you took it out? (The sentence says that this permit contains provisions implementing the federal Combined Sewer Overflow policy and recognizes the Tunnel and Reservoir Plan, TARP, now in the construction by MWRDGC as a long-term control plan for the Chicago Metropolitan area)

This sentence was removed based on a recommendation from USEPA. However, TARP is the LTCP for Chicago’s CSO’s. See Response 2b.

94. But while completion of TARP will help to reduce the impact of CSOs on Chicago, TARP only captures 85 percent of CSO pollution, that's according to MWRDGC. Consequently, Chicago's NPDES permit must clearly explain what Chicago will specifically do to reduce the CSOs and take pressure off of TARP.

See Response 88.

95. Requirement Number 10, on Page 9 of the permit requires the city to develop and implement a plan to assess and abate impacts from CSO discharges upon IEPA notification. What indicators will be used by IEPA to decide whether to trigger this requirement? As I understand it, the requirement is triggered by notification from IEPA. So what indicator does IEPA use to decide whether this requirement is triggered and the city must then develop the plan to assess and abate impacts from the CSO? Would a single violation trigger this requirement, in IEPA's view? What other factors would you consider in deciding whether to provide notification to trigger this requirement?

See Response 87.

96. The reliance on TARP is totally unjustified in the record. There have been no recent studies of TARP. Ask the IEPA to consider whether it will take steps to whether it believes that TARP will solve these problems.

See Response 91.

97. MWRDGC has not even promised to finish TARP in 2029. It promised to finish TARP as soon as the rock is taken out of the quarry by Vulcan Materials, and they are not doing anything hastily. So in between now and then, what is going to happen?

The completion of TARP by MWRDGC is required as specified in the federal Consent Decree. See Consent Decree at 15-17. For additional measures to be taken before the completion of TARP see Response 88.

98. There is already abundant evidence that Chicago CSO discharges are causing and contributing to violations of the dissolved oxygen and fecal coliform standards and that these discharges will cause violations of chloride standards when they become applicable to the CAWS. As a practical matter, the plan to abate violations of water quality standards should be done as part of development of the LTCP. Both development of the abatement plan and the LTCP should be done on an expedited basis.

See Response 87.

99. Has the City of Chicago submitted a long-term control plan, distinct from the district submission, to Illinois EPA, and have you reviewed and approved it?

The City of Chicago did not submit a LTCP separate from the one submitted by MWRDGC. The LTCP for the City of Chicago CSOs is TARP. See Illinois EPA letter dated June 28, 1995 to Metropolitan Water Reclamation District of Great Chicago; and Response 2(b).

100. The draft permit does not require the City of Chicago to develop and implement its own Long Term Control Plan (LTCP), as required by the Clean Water Act (CWA). Chicago currently lacks a properly developed LTCP that has been recently assessed to ensure its effectiveness at minimizing and eventually eliminating CSOs from Chicago's outfalls. Special conditions should be incorporated into the permit requiring prompt development and implementation of a detailed LTCP.

See Response 91.

101. Multiple statements were made at the June 30, 2015 public hearing on this draft permit that clearly demonstrate that there is a major problem of excessive floatables in the CAWS downstream from Chicago's CSOs following every rain storm. These statements indicate that water quality standards are being violated by Chicago's CSOs. This is not surprising because Chicago provides absolutely no treatment for any of its

CSOs. This is in direct violation of the CWA and the CSO Policy. Given that TARP will not be completed for an exceptionally long time, it is not reasonable for Chicago to continue to rely on TARP as its LTCP. Instead, the city must be required to develop a LTCP that begins the process of controlling CSOs to end violations of water quality standards.

A requirement to maintain and operate these skimmer boats has been added to Special Condition 3, Paragraph 24. In addition, the City must buy an additional two skimmer boats. See Special Condition 3, Paragraph 25, Responses 87 and 88.

102. The LTCP must take into account that the Water Quality Standards applicable to many of the waters affected by Chicago CSOs have recently changed.

The federal Consent Decree for MWRDGC contains provisions to ensure that water quality standards are met prior to the consent decree being terminated. See Consent Decree at 29.

103. The LTCP must take into account that TARP will not eliminate violations of WQS caused by Chicago CSOs and that MWRDGC has no legal obligation to prevent such violations.

See Response 87.

104. The LTCP must be drafted recognizing that the Tunnel and Reservoir Plan (TARP) is not expected to address all Chicago area CSOs that cause violations of water quality standards.

See Response 87.

105. The 2004 USEPA Investigation addressed capturing 10 times the dry weather flow. The USEPA Report questions whether “all dry weather flows” are being controlled by Chicago. This is a specific requirement of the CSO Policy. Chicago should be required to specifically address this in the revised permit. This draft permit condition also requires Chicago to capture the first flush of storm flows. That may not be possible using the TARP system if the TARP system is not accepting flows. The LTCP and the CSO Operational Plan should provide means for capturing the first flush in the event TARP is not accepting Chicago CSO flows.

All dry weather flows, the first flush of stormwater flows, and additional flows are directed to MWRDGC for conveyance to treatment facilities. See Special Condition 3, Paragraph 2.

106. The LTCP plan must take into account recent changes to the dissolved oxygen, chloride and pathogen water quality standards applicable to the CAWS and Upper Dresden Island Pool of the Des Plaines River.

See Response 102.

107. Green infrastructure and CSO treatment alternatives must be considered in the LTCP and the permit. The LTCP should consider a wide range of potential green infrastructure and CSO treatment alternatives, and the permit should spell out in detail what should be done to analyze these alternatives.

TARP is the LTCP for this CSS. See Illinois EPA letter dated June 28, 1995 to Metropolitan Water Reclamation District of Great Chicago; and Response 2(b). Green infrastructure is a component of the City of Chicago's CSO program. In addition, the City will expand its Green Stormwater Infrastructure Strategy, and prioritize sensitive areas and environmental justice communities. See Special Condition 3, Paragraph 8 and 14; and Response 85.

108. The permit should require a study in the LTCP of the costs and benefits of constructing increased stormwater conveyance to prevent CSOs and flooding on the North Side of Chicago and to address Bubbly Creek.

The City must develop a Nine Minimum Controls Enhancement Plan and additional sampling plans. See Special Condition 3, Paragraph 9 and Response 91.

109. The LTCP planning process must incorporate the Policy's public participation process and the permit must provide for public comment on the draft LTCP.

The LTCP has been approved and is currently being implemented. See Illinois EPA letter dated June 28, 1995 to Metropolitan Water Reclamation District of Great Chicago; Response 2(b), and Response 91.

Sensitive Area Considerations in the Long-Term Control Plan

110. As Chicago relies on MWRDGC to provide treatment of its CSOs, it is appropriate that the permit calls for this program to be coordinated with MWRDGC. However, Chicago's development of a LTCP should result in Chicago treating some CSOs itself, especially those in sensitive areas.

The U.S. Court of Appeals concluded that it would be imprudent to operate many smaller satellite treatment facilities. See *United States v. Metro. Water Reclamation Dist. of Greater Chicago*, 792 F.3d 821, 827 (7th Cir. 2015); and Response 91.

111. The opaque process and criteria, which are far weaker than the 6 Use Attainability Analysis factors, could result in a failure to recognize numerous stretches as "special

areas,” and lead to less safe conditions for the public—especially by exposing more sensitive populations, like children and immune-compromised crew teams, to high levels of pathogens. Our concerns are heightened by the fact that the assessment of sensitive areas under Chicago’s last NPDES permit was incomplete and unclear. The assessment also predated both the recognition of primary contact recreational uses and heavy capital improvements to expand public access to the CAWS.

Illinois EPA is not aware of primary contact activities occurring on the entirety of the CAWS. However, a schedule to relocate, control or treat discharges from these outfalls must be provided if information becomes available that causes the Agency to reverse this determination. See Special Condition 3, Paragraph 20. Under state regulations, "primary contact" is any recreational or other water use in which there is prolonged and intimate contact with the water involving considerable risk of ingesting water in quantities sufficient to pose a significant health hazard, such as swimming and water skiing. See 35 Ill. Adm. Code 301.355 and 378.102. USEPA reviewed the use designations in the CAWS when the IPCB adopted standards were submitted to USEPA for federal review. See February 11, 2015 USEPA Letter to Marcia Willhite.

112. The section of the Draft Permit regarding sensitive uses (Special Condition #3 No. 7), should be substantially rewritten to recognize that there is now ongoing recreational primary contact use in every part of the CAWS except for a portion of the CSSC.

See Response 111.

113. Language that suggests that Illinois EPA can make changes to the designated uses of receiving waters or determine that designated uses and applicable water quality standards can be ignored must be deleted. The language of Special Condition #3 No. 7 describes a process through which the permittee can choose what segments of the CAWS it feels are not suitable for primary contact recreation and request that Illinois EPA find that these waterbody segments are not “sensitive areas.” An implication of this condition could be to circumvent the legally determined designated uses and applicable water quality standards in these same segments.

Language in the permit is intended to incorporate Section II.C.3 of the federal CSO Control Policy as referenced in the federal Clean Water Act. The sensitive area considerations under the CSO Policy do not change designated uses, but rather are used to prioritize CSO controls in waters where primary contact recreation is occurring.

114. Bubbly Creek should be designated as a sensitive area and studies should be undertaken to address the Chicago CSOs that discharge to Bubbly Creek (as well as the Racine Avenue Pumping Station). Testimony heard at the public hearing on this permit made clear that water recreation on Bubbly Creek, because of its location and protection from certain commercial traffic, has become an important existing use for numerous people. Bubbly Creek should be included as a designated sensitive area in

this permit. IEPA must determine in this permit process whether it is physically possible and economically feasible to attain safe primary contact in Bubbly Creek and how quickly it can be done.

The South Fork of the South Branch of the Chicago River, commonly referred to as Bubbly Creek, is listed by the Illinois Pollution Control Board (IPCB) as an Incidental Contact Recreation Water pursuant to 35 Ill. Adm. Code 303.225. Under IPCB regulations, Incidental Contact Recreation Waters are not protected for primary contact activities. See 35 Ill. Adm. Code 301.282 and Response 111.

115. Given the recreational use of the waterway by ROW and others, the Illinois Environmental Protection Agency (IEPA) must ensure that Bubbly Creek is afforded the protections owed to “sensitive areas” under the governing Combined Sewer Overflow Control Policy. (In its draft permit, however, the agency has instead asserted that the City of Chicago’s eight Bubbly Creek outfalls—along with sixteen others “listed ... as discharging to incidental contact recreation waters”—“do not discharge to sensitive areas.”)

See Response 114.

116. It appears that the decision to modify the city's current protection of these areas only involve Illinois EPA and the City of Chicago. How does the public know if these areas do not protect for primary contact recreational use, and how does the City of Chicago involve the public in that modification process? IEPA should change the final permit to ensure that members of the public have an opportunity to comment on IEPA’s future sensitive-area determinations. (Under the draft permit, Chicago would be allowed to submit “documentation” aimed at persuading IEPA that some or all of the city’s outfalls do not discharge into sensitive areas.)

The federal Consent Decree requires that CSO discharges comply with water quality standards before the consent decree can be terminated. If a revised LTCP is needed for this CSS, the City of Chicago will be required to comply with the Clean Water Act requirements which would include involving the public in a revision to the LTCP. In addition, the Permit has conditions outlining the sensitive area process, requirements to submit documentation of any sensitive areas, and notifications to the Illinois EPA. See Special Condition 3, Paragraph 19.

117. The Permit should make clear that all of the areas that have been designated as primary contact by the IPCB are being used as such and should be protected as sensitive areas.

Sensitive Areas are considered a subset of waters in which to prioritize the efforts to control CSO discharges. See Combined Sewer Overflow Control Policy, 59 FR 18692 (1994). The sensitive area consideration under the Policy does not change designated uses.

118. There are areas that have primary contact recreation use which we can look at the criteria for sensitive areas as one of the criteria. And so we are wondering for those areas, how would you expect the city to evaluate recreational use to determine whether to relocate, control, or treat discharges from these areas?

See Responses 116 and 117.

119. In the permit, the special condition regarding sensitive area considerations, there are three factors given not to protect areas which would potentially qualify primary contact use waters. There are many factors in the Clean Water Act. If they are going to be monitored as a recreational water, basically, the fact that these discharges aren't treated, how would that correlate with evaluation under the EPA factors to comply with the Clean Water Act?

Language in the permit was intended to incorporate Section II.C.3 of the federal CSO Control Policy as referenced in the federal Clean Water Act. This language is not intended to and does not leave these waters unprotected. Nor does this language change designated uses, but rather is used to prioritize CSO controls in waters where primary contact recreation is occurring. Water receiving discharges from CSOs are all required to meet the water quality standards established by the IPCB.

120. We are troubled because the state has conducted the tri-annual review using the designation process only twice in the last 30 years. Relying on the 2011 designation ignores many various and dangerous encounters. This includes Bubbly Creek's users who regularly come into contact with CSO pollution.

The Illinois EPA, Bureau of Water has currently published its triennial review of the State's Water Quality Standards (WQS) consistent with the Clean Water Act (CWA). The purpose of the triennial review is to assess, develop, update, and revise WQS once every three years in accordance with the CWA. See Response 111 and 114.

121. According to the 1994 User Guidance for Screening and Ranking, Bubbly Creek should be assigned high ranking. The significant public health risks from the CSO events and the waterway status as a low energy stream mean Bubbly Creek CSOs should be given higher priority.

See Responses 114, 116, and 117.

122. Have all of Chicago's CSOs been evaluated for sensitive area consideration? And do I understand correctly, that the sensitive area consideration process allows us to show primary contact recreation outside the Illinois Pollution Control Board designation process? And that wouldn't have to go through the tri-annual review process through the Illinois Pollution Control Board?

For outfalls discharging to primary contact recreation or general use waters, the City must submit documentation indicating which of the outfalls do not discharge to sensitive areas within one year of the effective date of the permit. See Responses 114, 118, and 120.

123. How has IEPA or the City of Chicago implemented a screening and ranking process for permitting CSOs? And how would Bubbly Creek's unique characteristics play a part in the ranking process?

The City has not implemented a screening/ranking process. Bubbly Creek, also known as the South Fork of South Branch of Chicago River, discharges to the MWRDGC Stickney treatment plant. The Stickney NPDES indicates that the Illinois EPA has tentatively determined that those outfalls do not discharge to sensitive areas. The screening and ranking process is part of the LTCP which is under the authority of MWRDGC. See Consent Decree.

124. But you currently know of no way that the city ranks or the EPA works to rank CSOs?

The City has not implemented a screening/ranking process for permitting CSOs. See Response 123.

ACRONYMS & INITIALS

BMP	Best Management Practice
CAWS	Chicago Area Waterway System
CFR	Code of Federal Regulations
CIP	Capital Improvement Plan
CMOM	Capacity, Management, Operations and Maintenance Plan
CSO	Combined Sewer Overflow
CSS	Combined Sewer System
CWA	Clean Water Act
DMR	Discharge Monitoring Report
DO	Dissolved Oxygen
DWO	Dry Weather Overflow
gpcpd	Gallons per Capita per Day
IEPA	Illinois Environmental Protection Agency
I/I	Infiltration/Inflow
ILCS	Illinois Complied Statutes
Ill. Adm. Code	Illinois Administrative Code
IPCB	Illinois Pullulation Control Board
LTCP	Long Term Control Plan
mg/L	Milligrams Per Liter
MWRDGC	Metropolitan Water Reclamation District of Greater Chicago
NEIC	National Enforcement Investigations Center

NMC	Nine Minimum Controls
NPDES	National Pollutant Discharge Elimination System
O&M Plan	Operational and Maintenance Plan
Policy	CSO Control Policy of 1994
POTW	Publicly Owned Treatment Works
QA/QC	Quality Assurance/Quality Control
TARP	Tunnel and Reservoir Plan
TSS	Total Suspended Solids

DISTRIBUTION OF RESPONSIVENESS SUMMARY

An announcement, that the NPDES permit decision and accompanying responsiveness summary is available on the Illinois EPA website, was mailed to all who registered at the hearing and to all who sent in written comments. Printed copies of this responsiveness summary are available from Barb Lieberoff, 217-524-3038, e-mail: barb.lieberoff@illinois.gov.

WHO CAN ANSWER YOUR QUESTIONS

Illinois EPA NPDES Permit:

NPDES/Water Quality issues	Brant Fleming.....	217-782-0610
	Kaushal Desai.....	217-782-0610
Inspections and Field Operations issues	Jay Patel	847-294-4000
Legal questions	Sara Terranova.....	217-782-5544
Public hearing of June 30, 2015	Jeff Guy.....	217-558-8280

The public hearing notice, the hearing transcript, the NPDES permit and the responsiveness summary are available on the Illinois EPA website (it may be necessary to paste the web address into the window of your internet browser):

<http://www.epa.illinois.gov/public-notices/2015/npdes-notices/index#city-of-chicago>