



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
37 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-6000

SEP 15 2010

REPLY TO ORIGINAL NUMBER

Mr. Albert Ettinger
Environmental Law and Policy Center
35 East Wacker Drive, Suite 1300
Chicago, Illinois 60601

Dear Mr. Ettinger:

Thank you for your August 20, 2010, letter in which you ask the U.S. Environmental Protection Agency to act on your December 17, 2009, petition seeking corrective action or withdrawal of Indiana's National Pollutant Discharge Elimination System (NPDES) program.

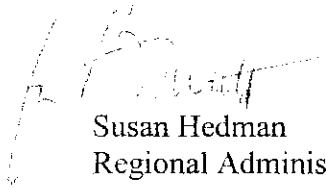
As you know, in a March 9, 2010, letter, EPA directed Indiana to revise its NPDES program to: (1) eliminate a conflict of interest in the Indiana process for issuing general permits; and (2) ensure that general permits do not exceed a term of five years. The Indiana Department of Environmental Management (IDEM) responded with the enclosed April 8, 2010, letter, providing a schedule of the actions it will take to correct these problems. The IDEM letter indicates that the State will reissue all of its general permits by late 2011 or early 2012. The public will have an opportunity to comment or request a hearing on the draft general permits.

EPA plans to review each of the new general permits under section 402(d) of the Clean Water Act, 33 U.S.C. § 1342(d), and 40 C.F.R. § 123.44. In the meantime, EPA and IDEM are discussing when the State may require discharges from proposed coal mines to be covered under individual permits instead of the current general permit. As you may be aware, IDEM can require a source that is authorized or seeks coverage under a general permit to apply for and obtain an individual permit when, among other circumstances, the general permit is not adequate to ensure that a discharger complies with water quality standards. *See*: Ind. Admin. Code tit. 327, r. 15-2-9(b) (2009). This rule provides that any interested person can petition the IDEM Commissioner to require an individual permit.

EPA continues to review your petition and we will respond to you in writing once we have completed a review of the issues raised in the petition, as supplemented by your August 20, 2010, letter. The review will include IDEM's March 10 and September 3, 2010, responses (enclosed) to your petition and August 20, 2010, letter.

Again, thank you for your letter. If you have further questions, please contact Kevin Pierard, Chief of the NPDES Programs Branch, at (312) 886-4448. For legal matters, please contact Maria Gonzalez, Associate Regional Counsel, at (312) 886-6630.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Hedman", is written over a faint, larger signature that is partially obscured.

Susan Hedman
Regional Administrator

Enclosures