

Urbana Champaign Sanitary District Special Meeting to Decide on Water Sale
June 20th at 10:30 a.m. 1100 East University, Urbana
Statement of Prairie Rivers Network
Contact: Kim Knowles (314) 341-1641

Thank you for having us again today. My name is Sarah Scott and I am here to present a statement for Prairie Rivers Network. We'd like to thank the board for engaging with the public throughout this process. We'd also like to thank Rick Manner for being so willing to facilitate ongoing discussions with us regarding the proposed sale and the contract terms. Despite the back and forth we have engaged in since we first learned of the sale this spring, we cannot support this deal as we now understand it, for the following reasons:

I. CONTRACT FAVORS CRONUS

The contract, as we understand it, currently favors the interests of Cronus over those of the District.

A twenty year term, with no provision for interim reconsideration by the District, is too long. The District should allow itself an opportunity to reconsider the sale within the next 5 to 10 years should circumstances change in the future. We all know that water is becoming an increasingly valuable commodity. Certainly the price of water will go up in the future. It could go up substantially. Why are we agreeing now to sell for fractions of a penny per gallon for the next 20 years?

We may also need the water closer to home. There are likely to be new buyers within our County and within our watershed willing to reuse our effluent in a more sustainable way and at a better price.

We suggest you negotiate a provision that allows for reconsideration before the expiration of the 20 year term. The District owns a valuable commodity that Cronus wants. Under this deal, they will get it very cheaply, and for a long time.

The District should not allow itself to be quote "penalized" for delivering less water during times of drought. According to the term sheet (and emails with Rick), the District will receive half, and as little as ¼ of the price per thousand gallons from Cronus should the District have less than 6.3 million gallons to deliver due to drought conditions and commitments to maintain minimum discharge to streams. Why would we agree in advance to be penalized for no wrong doing? We can only sell what we have, and Cronus understands this up front. The water is a valuable commodity, even more so during drought. Cronus can plan for drought and develop its own storage and/or back up plan. The District should only commit to delivering 6.3 MGD during certain conditions. There should be no reduced pricing during drought.

II. UNENFORCEABLE PROMISES

The District has made an important public promise, yet that promise is legally unenforceable. The District has stated that it will maintain minimum discharges of effluent to both the Saline Branch and the Copper Slough. Maintaining flow in these streams is a significant public concern that has been voiced not only by Prairie Rivers Network, but by many speakers at the public meeting on May 8th. We have asked that Prairie Rivers Network be made a party to the contract. Although this concept may appear “unconventional” to the District, third party beneficiary contracts are quite common and lawful.

The current draft terms leave UCSD free, if it chooses, to stop making minimum diversions to the rivers if it decides it is in the public interest to halt them. We are asking for a very limited right that would allow us to enforce the minimum discharge commitments. The contract provision could limit relief for violation of the discharge commitment to injunctive relief only. Future trustees and even future executive directors may not share your personal commitments to maintaining minimum flows. We are happy to work with the District and with Rick to develop such a provision. We have language available for your review. We ask that you include a paragraph in the term sheet allowing for third party enforcement.

III. CRITERION NOT SCIENCE BASED

While we appreciate the commitment to maintaining flows, we have consistently asked that the minimum discharge volumes be determined through consultation with qualified experts. While we have some helpful information from Trent Thomas of IDNR and Bruce Rhoads of the University of Illinois, we have asked the District to consult with Yong Cao and Daniel Schneider, aquatic ecologists at the U of I, who can provide invaluable information regarding protective flows. We understand that the question regarding how much flow is needed to protect aquatic life may be scientifically complicated, but that is precisely why we are advocating for further consultation. We ask that the District defer the quantification of minimum discharge volumes pending the outcome of the requested consultation.