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IN THE MATTER OF:)	
SETBACK ZONE FOR FAYETTE WATER)	R11-25
COMPANY COMMUNITY WATER SUPPLY)	
AMENDMENTS TO 35 ILL. ADM CODE)	(Rulemaking-
618)	Air

REPORT OF THE PROCEEDINGS held in the above entitled cause before Hearing Officer

Timothy Fox, called by the Illinois Pollution

Control Board, taken by Steven Brickey, CSR, for the State of Illinois, 100 West Randolph Street,

Chicago, Illinois, on the 22nd day of September,

2011, commencing at the hour of 1:00 p.m.



APPEARANCES

- MR. TIMOTHY FOX, Hearing Officer
- MR. ANAND RAO,
- MS. ANDREA MOORE
- MS. CARRIE ZALEWSKI
- MR. THOMAS JOHNSON
- MR. G. TANNER GIRARD
- MS. JENNIFER BURKE
- MS. ALISA LIU

ALSO PRESENT: MR. LYNN DUNAWAY

MS. JOANNE OLSON MR. MARK MITCHELL

REPORTED BY:

Steven J. Brickey, CSR CSR License No. 084-004675

- MR. FOX: Good afternoon. Welcome
- to this Illinois Pollution Control Board hearing.
- 3 My name is Tim Fox and I'm the Hearing Officer for
- 4 this rulemaking proceeding entitled In The Matter
- of: Setback Zone for Fayette Water Company
- 6 Community Water Supply. Amendments to 35 Ill.
- 7 Adm. Code 618.
- 8 The Board Docket Number for this
- ⁹ rulemaking is R11-25. I want to take a moment to
- indicate those who are present from the Board
- today. To my immediate right is Board Member
- 12 Andrea Moore, who is the lead Board Member for
- this rulemaking, and to my immediate left is Dr.
- 14 G. Tanner Girard who is the acting chairman of the
- Board. In addition to Dr. Girard's left is Board
- member Thomas Johnson. To his left is Board
- 17 Member Carrie Zalewski and to Member Moore's right
- is Board Member Jennifer Burke.
- I also want to point out that in
- the rear corner of the room are Anand Rao and
- 21 Alisa Liu of the Board's technical staff. The
- 22 Illinois Environmental Protection Agency initiated
- this rulemaking by filing a proposal on April 21st
- of 2011. In an order dated May 5th, 2011, the

- 1 Board accepted this proposal for hearing. The
- first hearing took place on July 27th, 2011, in
- 3 Vandalia in Fayette County and on August 2nd,
- 4 2011, a Hearing Officer order scheduled this
- 5 second hearing and set a deadline of September
- 8th, 2011, to pre-file testimony for it. However,
- 7 no participant has pre-filed testimony for this
- 8 hearing.
- 9 Since the Board has received no
- pre-filed testimony, we would begin this hearing
- with the testimony of any person who had not
- pre-filed, but wishes to testify today. I do want
- to note for the record that Mr. Mark Mitchell is
- present here today on behalf of the Illinois Rural
- Water Association although he has indicated that
- he does not have testimony or comments that he
- wishes to offer. We would certainly offer him the
- opportunity at some point if he wishes to
- 19 reconsider that to offer such testimony or
- 20 comment.
- I do want to note also for the
- record that inside the door on the table is a
- sheet on which anyone may indicate that they would
- like to testify today, but I can see plainly that

- no one has so indicated. What we will plan to do
- today is to make available to the Agency as the
- proponent of this proposal an opportunity to offer
- 4 any additional testimony or comments that they may
- wish to offer in support of their proposal.
- 6 After they have done so or
- 7 perhaps reflected that they do not wish to do so,
- 8 we will go briefly off the record to allow anyone
- ⁹ who may be delayed in arriving here today the
- opportunity to arrive.
- 11 At the conclusion of any
- testimony, we will certainly accept public comment
- as time allows before we adjourn the hearing in
- the event that anyone wishes to offer such a
- comment. As with all Board rulemaking
- proceedings, this proceeding is governed by the
- Board's procedural rules. Under Section 104.426
- of those rules, all information that is relevant
- and that is not repetitious or privileged will be
- 20 admitted into the record.
- Please note that any questions
- posed today by the Board or any of its staff
- members are intended solely to assist in
- developing a clear and complete record for the

- 1 Board's decision and do not reflect any
- prejudgment or predetermination on the proposal.
- I would ask for the benefit of
- 4 the court reporter -- I don't think we'll have
- issues with sound amplification here, but if you
- 6 would speak as clearly as possible and avoid
- 5 speaking at the same time as any other person
- 8 we'll have a much clearer record.
- ⁹ Any questions about our
- procedures going forward? Neither seeing nor
- hearing any, Ms. Olson, on behalf of the Agency
- why don't I introduce you just for a moment so
- that you may for the record let us know who is
- here on behalf of the Agency and at that point let
- us know if you have any testimony or comment with
- which you would like to supplement what is already
- in the record today.
- MS. OLSON: Thank you. My name is
- Joanne Olson. I'm assistant counsel for the
- 20 Illinois EPA and with me here today is Lynn
- Dunaway who is in the groundwater section of the
- water supply. The Agency does not wish to offer
- any testimony. However, if the Board has any
- questions, we can try to answer any questions you

- 1 may have.
- MR. FOX: Very well, Ms. Olson.
- Thanks very much. We certainly both on the part
- of the Board's technical staff and, of course, the
- 5 Board members avail ourselves of Ms. Olson's
- offer to see if there are any questions on the
- Agency's information that is in the record.
- Neither seeing nor hearing any,
- 9 Ms. Olson. So I appreciate your willingness to do
- so, but I think we can move ahead. What I'd like
- to do before we briefly go off the record is
- see -- Mr. Mitchell, give you another chance to
- indicate if you have anything you'd like to offer
- into the record.
- MR. MITCHELL: No.
- MR. FOX: Very good. Why don't we
- go off the record in just a moment and plan to
- hold it open for about 15 minutes as I mentioned
- so that we can account for anyone who may be
- unavoidably delayed and during that time we can
- speak about the procedural issue and setting a
- deadline for post hearing comments and if we may
- go off the record then.

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                        (Whereupon, a break was taken
                         after which the following
 3
                        proceedings were had.)
                  MR. FOX:
                            The time of 1:15 having
 5
     arrived, we want to come back on the record.
     have had no additional participants appear or
 7
     indicate a willingness to attend the hearing
 8
     either to offer testimony or comment and during
 9
     the time that we were off the record the
10
     participants did discuss the procedural issue of
11
     setting a deadline for filing of post hearing
12
     comments.
13
                       The copies of the transcript of
14
     this hearing are expected to be available on or
15
     before Monday, September 26th, 2011. Of course,
16
     once it is filed with the Board, it will be posted
17
     promptly to the Board's website under the clerk's
     office online, or COOL. Based on the availability
18
19
     of the transcript, I expect to set a 14-day post
20
     hearing comment period expected to end on Monday,
21
     October 14th.
                    However, once we have that
22
     transcript, I'll issue a Hearing Officer order so
23
     that every one -- all of the parties on the notice
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and the service lists are informed of the date on

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- which we received the transcript and the date on
- which we're setting the deadline for post hearing
- 3 comments.
- In addition to those comments,
- 5 any person may file a written public comment on
- this rulemaking proposal with the Board's clerk.
- 7 Comments may be filed electronically through COOL
- 8 and questions on those procedures may be directed
- 9 to our clerk's office. Any filings with the Board
- must also be served on the Hearing Officer and on
- those persons on the service list.
- 12 Again, the clerk's office can
- certainly provide any participant with the most
- recent version of that service list. If anyone
- has questions about the procedural aspects of this
- rulemaking, my contact information is listed on
- the Board's website. Are there any other matters
- that need to be addressed on the record? Mr.
- 19 Mitchell, please go ahead.
- MR. MITCHELL: Monday, October 10th.
- 21 Not the 14th.
- THE COURT: Thank you for correcting
- me. I often get dates wrong. That will be the --
- that's the expected conclusion of the 14-day

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1 comment period. So thank you for setting me
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- straight on that issue. Any other questions
- 3 before we adjourn?
- We have no other matters then to
- 5 address and, again, no other participants have
- 6 appeared indicating a willingness or interest in
- offering testimony. With that, thank you for your
- 8 travel for this brief hearing and we are adjourned
- 9 today. Thank you.

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Page 11
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     STATE OF ILLINOIS
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                             SS.
     COUNTY OF COOK
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 5
           I, Steven Brickey, Certified Shorthand
 6
     Reporter, do hereby certify that I reported in
 7
     shorthand the proceedings had at the trial
     aforesaid, and that the foregoing is a true,
     complete and correct transcript of the proceedings
10
     of said trial as appears from my stenographic
     notes so taken and transcribed under my personal
11
12
     direction.
13
           Witness my official signature in and for
     Cook County, Illinois, on this 23 day of
14
     September, A.D., 2010.
15
16
17
18
19
20
                           STEVEN BŘÍCKEY, CSR
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                           8 West Monroe Street
                           Suite 2007
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                           Chicago, Illinois 60603
                                  (312) 419-9292
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23
                           CSR No. 084-004675
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	Andrea 2:3	4:9 5:15,22	4:16 5:4	11:12	3:14
<u>A</u>	3:12	6:23 7:5	7:22 8:12	discuss 8:10	Girard's 3:15
about 6:9	another 7:12	8:16 9:9	ł.	Docket 3:8	1
7:18,21	anomer 7:12 answer 6:24	1	9:3,4,7	i	give 7:12
9:15	1	Board's 3:21	Community	done 5:6	go 5:8 7:11
above 1:7	anyone 4:23	5:17 6:1 7:4	1:3 3:6	door 4:22	7:17,23
accept 5:12	5:8,14 7:19	8:17 9:6,17	Company 1:3	Dr 3:13,15	9:19
accepted 4:1	9:14	both 7:3	3:5	Dunaway 2:7	going 6:10
account 7:19	anything	break 8:1	complete	6:21	good 3:1 7:16
acting 3:14	7:13	Brickey 1:9	5:24 11:9	during 7:20	governed
addition 3:15	appear 8:6	2:11 11:5	conclusion	8:8	5:16
9:4	appeared	11:20	5:11 9:24	<u>E</u>	groundwater
additional	10:6	brief 10:8	contact 9:16		6:21
5:4 8:6	appears	briefly 5:8	Control 1:1,9	E 2:1,1 either 8:8	H
address 10:5	11:10	7:11	3:2	eluier 8:8	
addressed	appreciate	Burke 2:5	Cook 11:3,14	i	having 8:4
9:18	7:9	3:18	COOL 8:18	9:7	hearing 1:7
adjourn 5:13	April 3:23	C	9:7	end 8:20	2:2 3:2,3
10:3	arrive 5:10	$\frac{\mathbf{C}}{\mathbf{C}2:1}$	copies 8:13	entitled 1:7	4:1,2,4,5,8
adjourned	arrived 8:5		corner 3:20	3:4	4:10 5:13
10:8	arriving 5:9	called 1:8 Carrie 2:4	correct 11:9	Environme	6:11 7:8,22
Adm 1:3 3:7	aspects 9:15		correcting	3:22 FDA 6:20	8:7,11,14
admitted	assist 5:23	3:17	9:22	EPA 6:20	8:20,22 9:2
5:20	assistant	cause 1:7	counsel 6:19	event 5:14	9:10 10:8
aforesaid	6:19	certainly	County 4:3	every 8:23	held 1:6
11:8	Association	4:17 5:12	11:3,14	expect 8:19	him 4:17
after 5:6 8:2	4:15	7:3 9:13	course 7:4	expected	hold 7:18
afternoon	attend 8:7	Certified	8:15	8:14,20	hour 1:12
3:1	August 4:3	11:5	court 1:24	9:24	I
again 9:12	avail 7:5	certify 11:6	2:24 6:4	F	Ill 1:3 3:6
10:5	availability	chairman	9:22	Fayette 1:2	Illinois 1:1,8
Agency 3:22	8:18	3:14	CSR 1:9 2:11	3:5 4:3	1:10,11 3:2
5:2 6:11,14	available 5:2	chance 7:12	2:11 11:20	file 9:5	3:22 4:14
6:22	8:14	Chicago 1:11	11:23	filed 8:16 9:7	6:20 11:1
Agency's 7:7	avoid 6:6	11:22	D	filing 3:23	11:14,22
ahead 7:10	A.D 11:15	clear 5:24		8:11	immediate
9:19	B	clearer 6:8	date 8:24 9:1	6.11 filings 9:9	3:11,13
Air 1:4		clearly 6:6	dated 3:24	first 4:2	indicate 3:10
Alisa 2:6	back 8:5	clerk 9:6	dates 9:23	following 8:2	4:23 7:13
3:21	Based 8:18	clerk's 8:17	day 1:11	foregoing	8:7
allow 5:8	before 1:7	9:9,12	11:14	11:8	indicated
allows 5:13	5:13 7:11	Code 1:3 3:7	deadline 4:5	forward 6:10	4:15 5:1
already 6:16	8:15 10:3	come 8:5	7:22 8:11	Fox 1:8 2:2	indicating
although	begin 4:10	commencing	9:2	3:1,3 7:2,16	10:6
4:15	behalf 4:14	1:12	decision 6:1	8:4	information
Amendme	6:11,14	comment	delayed 5:9	from 3:10	5:18 7:7
1:3 3:6	benefit 6:3	4:20 5:12	7:20	11:10	9:16
amplificati	Board 1:1,9	5:15 6:15	developing	11.10	informed
6:5	3:2,8,10,11	8:8,20 9:5	5:24	G	8:24
Anand 2:3	3:12,15,15	10:1	directed 9:8	G 2:5 3:14	8:24 initiated 3:22
3:20	3:16,18 4:1	comments	direction	Girard 2:5	inside 4:22
				Sit wi W 2.3	msiue 4:22
Management and selections					

		- (10.00	110611		
intended	may 3:24	7:6,13 8:8	4:18 6:14	Randolph	September
5:23	4:23 5:4,9	offering 10:7	Pollution 1:1	1:10	1:11 4:5
interest 10:6	6:13 7:1,19	office 8:18	1:8 3:2	Rao 2:3 3:20	8:15
introduce	7:22 9:5,7,8	9:9,12	posed 5:22	rear 3:20	served 9:10
6:12	member 3:11	Officer 1:7	possible 6:6	received 4:9	service 8:24
issue 7:21	3:12,16,17	2:2 3:3 4:4	post 7:22	9:1	9:11,14
8:10,22	3:17,18	8:22 9:10	8:11,19 9:2	recent 9:14	set 4:5 8:19
10:2	members	official 11:13	posted 8:16	reconsider	Setback 1:2
issues 6:5	5:23 7:5	often 9:23	predetermi	4:19	3:5
	mentioned	Olson 2:8	6:2	record 4:13	setting 7:21
J	7:18	6:11,18,19	prejudgment	4:22 5:8,20	8:11 9:2
J 2:11	minutes 7:18	7:2,9	6:2	5:24 6:8,13	10:1
Jennifer 2:5	Mitchell 2:8	Olson's 7:5	present 2:7	6:17 7:7,11	sheet 4:23
3:18	4:13 7:12	once 8:16,21	3:10 4:14	7:14,17,23	shorthand
Joanne 2:8	7:15 9:19	one 5:1 8:23	pre-file 4:6	8:5,9 9:18	11:5,7
6:19	9:20	online 8:18	pre-filed 4:7	reflect 6:1	signature
Johnson 2:4	moment 3:9	open 7:18	4:10,12	reflected 5:7	11:13
3:16	6:12 7:17	opportunity	privileged	relevant 5:18	Since 4:9
July 4:2	Monday 8:15	4:18 5:3,10	5:19	repetitious	solely 5:23
just 6:12 7:17	8:20 9:20	order 3:24	procedural	5:19	some 4:18
K	Monroe	4:4 8:22	5:17 7:21	REPORT 1:6	sound 6:5
	11:21	other 6:7	8:10 9:15	reported	speak 6:6
know 6:13,15	Moore 2:3	9:17 10:2,4	procedures	2:10 11:6	7:21
L	3:12	10:5	6:10 9:8	reporter 6:4	speaking 6:7
	Moore's 3:17	ourselves 7:5	proceeding	11:6	SS 11:2
lead 3:12	most 9:13	out 3:19	3:4 5:16	REPORTE	staff 3:21
left 3:13,15	move 7:10		proceedings	1:24 2:24	5:22 7:4
3:16	much 6:8 7:3	P	1:6 5:16 8:3	right 3:11,17	State 1:10
let 6:13,14	must 9:10	P 2:1,1	11:7,9	room 3:20	11:1
License 2:11 like 4:24 6:16	***************************************	part 7:3	promptly	rulemaking	stenographic
i	N	participant	8:17	1:3 3:4,9,13	11:10
7:10,13	N 2:1	4:7 9:13	proponent	3:23 5:15	Steven 1:9
list 9:11,14	name 3:3	participants	5:3	9:6,16	2:11 11:5
listed 9:16	6:18	8:6,10 10:5	proposal	rules 5:17,18	11:20
lists 8:24	need 9:18	parties 8:23	3:23 4:1 5:3	Rural 4:14	straight 10:2
Liu 2:6 3:21	Neither 6:10	perhaps 5:7	5:5 6:2 9:6	R11-25 1:2	Street 1:10
LLC 1:24	7:8	period 8:20	Protection	3:9	11:21
2:24	note 4:13,21	10:1	3:22		Suite 11:21
Lynn 2:7	5:21	person 4:11	provide 9:13	S	supplement
6:20	notes 11:11	6:7 9:5	public 5:12	S 2:1	6:16
L.A 1:24	notice 8:23	personal	9:5	same 6:7	supply 1:3
2:24	Number 3:8	11:11	p.m 1:12	scheduled	3:6 6:22
<u>M</u>		persons 9:11	1	4:4	support 5:5
	<u> </u>	Phone 11:22	Q	second 4:5	
make 5:2	October 8:21	place 4:2	questions	section 5:17	T
Mark 2:8	9:20	plainly 4:24	5:21 6:9,24	6:21	table 4:22
4:13	off 5:8 7:11	plan 5:1 7:17	6:24 7:6 9:8	see 4:24 7:6	take 3:9
Matter 1:2	7:17,23 8:9	please 5:21	9:15 10:2	7:12	taken 1:9 8:1
3:4	offer 4:17,17	9:19		seeing 6:10	11:11
matters 9:17	4:19 5:3,5	point 3:19	R	7:8	Tanner 2:5
10:4	5:14 6:22		R 2:1		
Y			l	l	

3:14	***	2010 11:15		
technical	W	2010 11:13 2011 1:12		
	want 3:9,19	l .		
3:21 7:4	4:12,21 8:5	3:24,24 4:2		
testify 4:12	water 1:2,3	4:4,6 8:15		
4:24	3:5,6 4:15	21st 3:23		
testimony 4:6	6:22	22nd 1:11		
4:7,10,11	website 8:17	26th 8:15		
4:16,19 5:4	9:17	27th 4:2		
5:12 6:15	Welcome 3:1	3		
6:23 8:8	well 7:2	312 1:24 2:24		
10:7	were 8:3,9	11:22		
thank 6:18	West 1:10	35 1:3 3:6		
9:22 10:1,7	11:21	33 1.3 3.0		
10:9	we'll 6:4,8	4		
Thanks 7:3	we're 9:2	419-9292		
their 5:5	willingness	1:24 2:24		
think 6:4	7:9 8:7 10:6	11:22		
7:10	wish 5:5,7			
Thomas 2:4	6:22	5		
3:16	wishes 4:12	5th 3:24		
through 9:7	4:17,18			
Tim 3:3	5:14	6		
time 5:13 6:7	Witness	60603 11:22		
7:20 8:4,9	11:13	618 1:4 3:7		
Timothy 1:8	written 9:5			
2:2	wrong 9:23	8		
today 3:11		8 11:21		
4:12,14,24	Z	8th 4:6		
5:2,9,22	Zalewski 2:4			
6:17,20	3:17			
10:9	Zone 1:2 3:5			
transcribed	0			
11:11	084-004675			
transcript	2:11 11:23			
8:13,19,22	2.11 11.23			
9:1 11:9	1			
travel 10:8	1:00 1:12			
trial 11:7,10 true 11:8	1:15 8:4			
true 11:8 try 6:24	10th 9:20			
u y 0.24	100 1:10			
\mathbf{U}	104.426 5:17			
unavoidably	14th 8:21			:
7:20	9:21			:
under 5:17	14-day 8:19			
8:17 11:11	9:24			
	15 7:18			
V				
Vandalia 4:3	2			
version 9:14	2nd 4:3			
very 7:2,3,16	2007 11:21			
		l		