

ILLINOIS POLLUTION CONTROL BOARD  
April 27, 2026

SIERRA CLUB, PRAIRIE RIVERS	)	
NETWORK, AND NATIONAL	)	
ASSOCIATION FOR THE ADVANCEMENT	)	
OF COLORED PEOPLE,	)	
	)	
Complainants,	)	
	)	
v.	)	PCB 18-11
	)	(Enforcement- Water)
CITY OF SPRINGFIELD, OFFICE OF	)	
PUBLIC UTILITIES d/b/a CITY WATER,	)	
LIGHT AND POWER,	)	
	)	
Respondent.	)	

**HEARING OFFICER ORDER**

On April 7, 2026, City Water Light and Power (CWLP) filed a motion in limine seeking to bar evidence of (1) alleged exceedances of groundwater standards for constituents other than boron, sulfate and TDS; and (2) alleged exceedance of groundwater standards at monitoring wells not identified in the Complaint or Board order on liability. On April 21, 2026, complainants filed a response asserting that the evidence is relevant for the Board's consideration of 415 ILCS 33(c) and 42(h) of the Environmental Protection Act (Act) (hereinafter referred to as 33(c)/42(h)). For the following reasons, CWLP's motion is denied, but complainants' evidence presented at hearing may be limited.

**Facts Relevant to Motion in Limine**

On April 19, 2019, complainants filed an amended complaint alleging violations of Sections 12(a) and 12(d) of the Act, as well as sections of 35 Ill. Adm. Code 620 pertaining to exceedances of groundwater quality standards (GQS) for arsenic, boron, iron, lead, manganese, sulfate, and total dissolved solids (TDS). The monitoring wells named were AP-1 through AP-5 and AW-3 (according to complainants, AW-3 has been replaced by RW-3). Complainants requested the following relief: a declaration that respondent violated the Act; civil penalties; and an order that CWLP must cease and desist, modify its waste disposal and storage practices, and remediate the contaminated groundwater.

In denying summary judgment on June 17, 2021, the Board found a question of fact as to whether arsenic and manganese concentrations validly reflect contaminant releases from one or both coal ash surface impoundments (p.27). On May 5, 2022, the parties stipulated that they would not pursue a finding on the cause of GQS exceedances of arsenic, chromium, iron, lead and manganese at the wells in question.

On July 25, 2022, complainants filed a renewed motion for summary judgment. The motion asked the Board to find violations of Section 12(a) of the Act and Part 620 of the Board's GQS rules and requested a separate hearing on remedy.

In the renewed motion for partial summary judgment, complainants submitted CWLP's self-reported groundwater monitoring results from 2018-2022 for wells AP-1, AP-2R and AP-3 which continued to show exceedances for boron, sulfate and TDS.

CWLP asserted that samples taken in January 2021 and later were no longer subject to Part 620 standards after CCR surface impoundment rules under Part 845 (35 Ill. Adm. Code 845) became effective in April 2021.

On September 7, 2023, the Board granted complainants' renewed motion for partial summary judgment, finding that CWLP allowed contaminant releases from one or both surface impoundments resulting in exceedances of Class I GQS for boron, sulfate and TDS. The Board held that CWLP violated Section 12(a) of the Act and Sections 620.115, 620.301(a) and 620.405 of the Board's groundwater rules for the discharge of boron, sulfate and TDS at monitoring wells AP-1R, AP-2, AP-2R and AP-3.

The Board further held that, regardless of IEPA's intent, the plain language of Part 845 does not establish an exemption from Part 620. The Board was not persuaded that Part 845 rules offer a defense to Part 620 violations, but the Board allowed CWLP to raise the argument again when addressing factors of Section 42(h) of the Act.

The Board did not make a finding on whether surface impoundments caused exceedances of GQS at monitoring well AW-3; whether exceedances of GQS for arsenic, chromium, iron, lead and manganese detected at the monitoring wells were caused by surface impoundments; and whether isolated manganese and arsenic concentrations reflect contaminant releases from surface impoundments. The parties had already agreed not to introduce evidence as to the cause of the exceedances, so there are no substantive findings of fact. The Board held that the case may proceed to a hearing on remedy.

On July 23, 2025, CWLP filed a motion to Board preliminary to hearing seeking to clarify the scope of remedies. Specifically, CWLP moved to exclude any testimony or evidence related to complainants' requested "injunctive" relief or alleged violations occurring after March 28, 2025 (complainant's response clarified that they seek a cease and desist order, e.g. an order of compliance, not injunctive relief, which is a court-ordered mandate where the complainant is the State's Attorney or Attorney General).

CWLP further argued that complainants' request for a cease and desist order is not appropriate where violations are wholly past. The Board affirmed the hearing officer's denial of the motion.

## **Discussion**

This is a hearing on remedy, not liability. The focus at hearing should be on evidence related to a remedy for CWLP's violation of Section 12(a) of the Act, and Part 620 for the discharge of boron, sulfate and TDS at wells AP-1R, AP-2, AP-2R and AP-3.

However, additional evidence may be introduced that is not directly related to the aforementioned violations. In the December 21, 2017 Board order accepting the case for hearing, the Board directed the hearing officer to advise the parties that the hearing should present facts that enable the post-hearing briefs to propose a remedy that addresses 33(c) factors and to propose a civil penalty, including a specific total dollar amount, and the portion of that amount attributable to the respondent's economic benefit, if any, from delayed compliance, and supporting its position with facts and arguments that address 42(h) factors.

Evidence of the continued presence of any constituent named in the amended complaint, including for well AW-3 (now RW-3) is relevant and admissible for the post-hearing analysis of 33(c)/42(h). However, evidence may be limited at hearing for constituents other than boron, sulfate and TDS. As complainants previously stipulated that they would not pursue the cause of the presence of the other constituents, testimony and evidence at hearing may be limited to that necessary to argue 33(c)/42(h) factors in their post hearing brief. In other words, evidence should be summarized rather than detailed in a manner that would normally be used to establish liability.

As mentioned above, CWLP's post-hearing brief may argue that Part 845 is a defense to Part 620 violations as part of its analysis of 42(h). To that end, expert testimony or other evidence is admissible at hearing as needed for either party to argue this issue in their post-hearing brief.

Again, the purpose of this hearing is to assist the Board in fashioning a remedy for the violation of Section 12(a) of the Act and Part 620 for the discharge of boron, sulfate, and TDS at the aforementioned wells. Evidence of other constituents, including those found in well AW-3, will be admitted with limitations to argue 33(c)/42(h) factors in the post-hearing brief

IT IS SO ORDERED.



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CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were e-mailed on, March 12, 2026, to each of the person on the service list below.

It is hereby certified that a true copy of the foregoing order was e-mailed to the following on March 12, 2026:

Don Brown  
Illinois Pollution Control Board  
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Chicago, Illinois 60605



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