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1 ILLINOIS POLLUTION CONTROL BOARD
 2 IN THE MATTER OF:)
 3)
 4 SETBACK ZONE FOR CITY OF) R05-9
 5 MARQUETTE HEIGHTS COMMUNITY) (Rulemaking-
 6 WATER SUPPLY, NEW 35 ILL. ADM.) Public Water
 7 CODE 618) Supply)
 8
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 11 Transcript of the proceedings of the
 12 above-entitled cause on the 5th day of April, 2005
 13 at 10:00 a.m.
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1 PRESENT:
 2
 3 Richard R. McGill, Jr., Hearing Officer,
 4 Andrea Moore, Lead Board Member,
 5 Anand Rao, Senior Environmental Scientist,
 6 Illinois Pollution Control Board
 7 James R. Thompson Center
 8 100 West Randolph Street, Suite 11-500
 9 Chicago, Illinois 60601
 10
 11 Thomas E. Johnson, Board Member,
 12 Illinois Pollution Control Board
 13 2125 South First Street
 14 Champaign, Illinois 61820
 15
 16 Stephanie Flowers, Assistant Counsel,
 17 Kimberly A. Geving, Assistant Counsel,
 18 Richard P. Cobb, P.G., Deputy Manager,
 19 Illinois Environmental Protection Agency
 20 1021 North Grand Avenue East
 21 P.O. Box 19276
 22 Springfield, Illinois 62794-9276
 23 REPORTED BY: SHARON BERKERY, C.S.R.
 24 CERTIFICATE NO. 84-4327.

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E X H I B I T S			
NUMBER		MARKED FOR ID	RECEIVED
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1 THE HEARING OFFICER: Good morning.
2 Welcome to the Illinois Pollution Control
3 hearing in Chicago for Docket R05-9, which is
4 captioned in the matter of Setback Zone For
5 City of Marquette Heights Community Water
6 Supply. 35 Illinois Administrative
7 Code 618.

8 My name is Richard McGill, I am
9 the THE HEARING OFFICER for this proceeding.
10 Briefly, some background: The Board received
11 this rulemaking proposal from the Illinois
12 Environmental Protection Agency to expand the
13 setback zone protection for the community
14 water supply well for the City of Marquette
15 Heights in Tazwell County, pursuant to
16 Section 14.3D of the Environmental Protection
17 Act.

18 On March 1st, we had our first
19 hearing that was held in Pekin. Today is the
20 second hearing. And, at present, no
21 additional hearings are scheduled.

22 Also, present today on behalf of
23 the Board, to my right, is board member
24 Andrea Moore, she is the lead board member

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1 for this rulemaking. To my far left is board
2 member Tom Johnson, and to my immediate left
3 Anand Rao, who is the head of the Board's
4 technical unit.

5 Today's proceeding is governed by
6 the Board's procedural rules. All
7 information that is relevant and not
8 repetitious or privileged will be admitted
9 into the record.

10 We will begin with the Agency's
11 testimony followed by any question the Board
12 or any members of the public may have for the
13 Agency. And then there will be an

14 opportunity for anyone else to testify,
15 should anyone else show up. And I'll just
16 note, for the record, that, at this point,
17 there are no other members of the public
18 present.

19 Those who testify will be sworn in
20 and may be asked questions about their
21 testimony. For the court reporter
22 transcribing today's proceeding, please speak
23 up and do not talk over one another to help
24 assure we receive a clear transcript.

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1 Before we adjourn today, I will
2 set a prefirst notice deadline for filing
3 public comments. Are there any questions
4 about the procedures we'll be following
5 today?

6 MS. GEVING: No questions.

7 THE HEARING OFFICER: Okay. Would the
8 court reporter go ahead and swear in the
9 Agency's representatives collectively,
10 please.

11 (WHEREUPON, the witnesses were duly
12 sworn.)

13 THE HEARING OFFICER: Thank you. Now
14 I'd ask agency attorney, Kimberly Geving, to
15 begin the Agency's presentation today.

16 MS. GEVING: Good morning. I am
17 assistant counsel for the Illinois
18 Environmental Protection Agency, and to my
19 right is Stephanie Flowers, also assistant
20 counsel for the Illinois EPA. And to my left
21 Richard Cobb, the manager of the division of
22 public water supply for the Illinois EPA.

23 This morning we have a number of
24 matters that were requested as follow-up at

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1 the last hearing, so we would like to go
2 through, first off, being the Errata Sheet
3 No. 1. And, Mr. Cobb, I'm going to show you
4 a document and ask you to identify that for
5 the record.

6 MR. COBB: Errata Sheet No. 1.

7 MS. GEVING: Is that a true and
8 accurate copy of what we filed with the
9 Pollution Control Board?

10 MR. COBB: Yes, it is.

11 MS. GEVING: At this time, I would ask
12 the court reporter to mark this as an
13 exhibit.

14 And I don't know our progression.

15 THE HEARING OFFICER: I'll go ahead
16 and mark it. This would be marked as Exhibit
17 F.

18 (WHEREUPON, a certain document was
19 marked Hearing Exhibit F for
20 identification, as of 4/5/05.)

21 MS. GEVING: And I would make a
22 motion, please, that that be entered into the
23 record.

24 THE HEARING OFFICER: Okay. This is

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1 the Agency Errata Sheet No. 1. Is there any
2 objection to entering this into the record as
3 a hearing exhibit?

4 Seeing none, I will mark this as
5 Exhibit F and enter it as a hearing exhibit.
6 (WHEREUPON, said document,
7 previously marked Hearing
8 Exhibit F, for identification, was
9 offered and received in evidence.)

10 THE HEARING OFFICER: At this point,
11 it might make sense to just ask that -- we
12 have one follow-up question regarding the
13 errata sheet. Just for continuity of the
14 transcript, it would probably make sense to
15 just go ahead and pose that question at this
16 point for Mr. Cobb.

17 Looking at the errata sheet
18 there's the proposed changes to Section
19 618.200, Subsection B. We just want to make
20 sure that we understand the Agency's intent.

21 If there is an agra chemical
22 facility located wholly or partially within
23 this new maximum setback zone, and that agra
24 chemical facility has affirmatively opted out

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1 of the Board's Parts 615 and 616 regulations,
2 is it correct to say that this rulemaking
3 proposal would not apply to that facility?

4 MR. COBB: Correct. The other agency
5 rules that are -- that were developed as
6 alternatives to 615, 616 would then apply.

7 THE HEARING OFFICER: Okay. Thank
8 you.

9 Any --

10 MR. COBB: For the record, too, just
11 for your -- for the transcript, I think it
12 might be important just to note that the
13 legislation -- or the Board regulation that
14 provided for this opting out, was Board
15 Docket R92-90. And -- which provided the
16 exception or opting out process to 615 and
17 616. And that was a result of legislation
18 that was adopted to require the development
19 of --

20 THE HEARING OFFICER: Okay. And an
21 agra chemical facility then, that
22 affirmatively opts out of the Parts 615 and
23 616 rule, they are then regulated under the
24 Department of Agriculture --

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1 MR. COBB: Yeah. Depending on the
2 type of --

3 THE HEARING OFFICER: -- for the
4 Department of Public Health?
5 MR. COBB: Yes.
6 THE HEARING OFFICER: Okay.
7 MR. RAO: I have a follow-up.
8 THE HEARING OFFICER: Yes.
9 MR. RAO: For the record, are you
10 familiar with those rules of the other
11 agencies?
12 MR. COBB: Yes. We helped the other
13 agencies develop those rules, yes.
14 MR. RAO: Okay. And so, do those
15 rules also include similar provisions for
16 production of town water, like the Board
17 rules?
18 MR. COBB: Yes, they do. The primary
19 difference is just the administrator of the
20 rules, and that was -- one of the primary
21 concerns is that most of these facilities,
22 for example, the agra chemical facilities,
23 are already under permit and regulated by the
24 Illinois Department of Agriculture. And so,
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1 they all -- they wanted to be regulated and
2 under one shop, so to speak. And that's the
3 primary difference.
4 MR. RAO: So when the setback is
5 expanded, if this rule is adopted by the
6 Board, those rules will automatically have
7 certain provisions that will apply to these
8 specialties that will be covered by --
9 MR. COBB: Correct. If those
10 facilities were located there, then they
11 would have to make an affirmative step
12 towards being covered under those rules.
13 Otherwise, they would be covered under the
14 Board regulations.
15 MR. RAO: Thank you.
16 THE HEARING OFFICER: Great. I don't
17 think we have any other questions at this
18 point in time regarding the errata sheet, so
19 if you'd like to continue with your
20 presentation?
21 MS. GEVING: Sure.
22 THE HEARING OFFICER: Thanks.
23 MS. GEVING: The remainder of the
24 items that we are going to go through are
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1 also items that the Board requested we either
2 provide copies to the Board or provide you
3 with color copies, since the Board only
4 received one original color copy. So I'm
5 going to direct Mr. Cobb to this large
6 bulletin board to my left and have him
7 describe what is up there for the Board.
8 MR. COBB: And before proceeding up
9 there, these are really enhancements of

10 Figure No. 1 in my testimony and Figure
11 No. 2.

12 THE HEARING OFFICER: And, by your
13 testimony, you're referring to your prefiled
14 testimony?

15 MR. COBB: That's correct.

16 THE HEARING OFFICER: And that is, for
17 the record, Exhibit A in this rulemaking.

18 MR. COBB: The first large poster-size
19 exhibit really lays out the Marquette Heights
20 public water supply (indicating). Each of
21 the Marquette Heights' wells are labeled with
22 their appropriate well number and are then
23 tied back to a table that provides the
24 facility number and the well numbers and also

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1 then this 50210 is a North Pekin well. So
2 you can see what wells belong to what
3 community water systems.

4 Further then, we've delineated the
5 well head protection areas, the Phase II well
6 head protection areas that were delineated
7 pursuant to Section 1428 of the Safe Drinking
8 Water Act. So we have the Groveland Township
9 Water Direct, North Pekin.

10 This is North Pekin, Marquette
11 Heights. This is the proposed Marquette
12 Heights maximum setback zone. This is the
13 delineated well head protection area.

14 This is PB Amoco. Over here is
15 Hicks. These two facilities are agra
16 chemical facilities.

17 And then up here we have the
18 community water system that's serving
19 Crevecoeu, and these are the three Crevecoeu
20 wells. They're also labeled and tied into
21 the cross-reference table on this exhibit.

22 As well, the map legend lays out
23 the different symbology for this exhibit.
24 For example, the red boundary is the subject

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1 of this proceeding or proposed maximum
2 setback zone boundary. The sort of harvest
3 gold, orange color is a delineated well head
4 protection area.

5 And then we've also illustrated
6 the municipal boundary with a very slight
7 shading and an outlined boundary. For
8 example, Pekin's municipal boundary is this
9 light green, this is unincorporated.

10 All this -- actually, North Pekin
11 is right here. Then we've got Marquette
12 Heights. And then up here, this green shade
13 is Crevecoeu.

14 So that, in terms -- it's really a
15 geographic description and depiction of all
16 of the pieces of information that we

17 discussed. And I think it's a lot easier to
18 see than the black and white copies that the
19 Board originally had.

20 Now, the second Exhibit --

21 THE HEARING OFFICER: If I could just
22 stop you there for a second?

23 MR. COBB: Yes.

24 THE HEARING OFFICER: It might be

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1 easier to follow along if we go ahead and
2 mark this at this point and enter it into the
3 record. I take it, at this point -- do you
4 want to go ahead and make that motion?

5 MS. GEVING: Absolutely. Would you
6 like us to take that down, or do you prefer
7 to mark it up there?

8 THE HEARING OFFICER: Yeah. Let's
9 just leave it up there. I think it will just
10 be easier for Mr. Cobb to continue his
11 testimony and for us to look on if we leave
12 it up there.

13 MS. GEVING: Okay. So this would then
14 become Exhibit G; is that correct?

15 THE HEARING OFFICER: Yes.

16 MS. GEVING: I would make a motion
17 then that we mark this first exhibit on the
18 left as Exhibit G and enter it into the
19 record, please.

20 THE HEARING OFFICER: Is there any
21 objection to that motion? Seeing none, we
22 will mark this over-sized exhibit as
23 Exhibit G. It's entitled proposed Marquette
24 Heights maximum setback zone with well head

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1 protection areas of adjacent community water
2 supplies.

3 (WHEREUPON, a certain document was
4 marked Hearing Exhibit G for
5 identification, as of 4/5/05
6 and received into the record.)

7 THE HEARING OFFICER: So that's in the
8 record as Exhibit G. And you said that
9 corresponds to your prefiled testimony?

10 MR. COBB: That is, basically, a
11 replication for Figure No. 2 in the prefiled
12 testimony.

13 THE HEARING OFFICER: Okay. The
14 prefiled testimony is our Exhibit A.

15 MR. COBB: Which that original figure
16 was limited in scope.

17 THE HEARING OFFICER: Thank you.

18 MR. COBB: The second exhibit, which I
19 assume will be exhibit --

20 MS. GEVING: H.

21 MR. COBB: H.

22 MR. RAO: Is that Figure No. 1 in your
23 prefiled testimony or Figure No. 2?

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MR. COBB: Figure No. 2.

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MR. RAO: Okay.

MR. COBB: I'm not going in order.

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MR. RAO: Yeah.

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MR. COBB: Figure No. 2 then -- I mean

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Figure No. 1, this second exhibit, which is

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Exhibit H, which is entitled Marquette

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Heights proposed maximum setback zone in

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relation to potential for aquifer recharge.

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And for those familiar with the groundwater

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protection legislation in 1987, there were

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amendments to the Illinois Environmental

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Protection Act at 5 -- ILCS, Illinois

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Compiled Statutes, 5/17.3.

Section 17.3 of the Illinois

Environmental Protection Act then required

the Department of Natural Resources to do a

statewide potential for aquifer recharge map.

Recharge can be broken up into the state in

terms of its potential and its completion of

a hydrologic cycle with the groundwater

component.

Areas of higher recharge have a

higher probability of recharging groundwater

from the surface versus areas of lower

recharge within the state will probably have

runoff to surface streams. So we have a

statewide map that the Department of Natural

Resources developed pursuant to Section 17.3

of the Act.

That potential for aquifer

recharge map, the purpose of that, was to

assist the Illinois Environmental Protection

Agency in establishing priority groundwater

protection planning regions. The first of

those that we established was in 1991 and

included what's referred to as the central
priority groundwater protection planning
region.

What I show here is an excerpt of
that potential for recharge map. And what
we've done is we've used geographic
information system technology to show the
topography in three dimensions so that you
can see the valley here. And then that's
bounded by this bluff area to the east on
Exhibit H.

The valley then has, regionally, a
very high potential for aquifer recharge. So

this is zoomed into the statewide map, and,

of course, lies within the central priority

groundwater protection planning region. The

nice thing about it is it shows you the

boundary then of the aquifer with this bluff

6 area.
7
8 And then within this Exhibit
9 the -- within the aquifer, we, once again,
10 show the proposed maximum setback zone of
11 Marquette Heights and also the delineated
12 contributing recharge areas of these pumping
13 community water supplies that are extracting
14 water from this regional aquifer system here
15 in Tazwell County. So, once again, this is
16 just to better illustrate the figure that was
17 not discernable in the black and white copy
18 of the testimony.

19 And I think it shows -- you know,
20 it shows the scientific boundaries of the
21 aquifer. And those were also chosen -- which
22 you can tell pretty well, match pretty well
23 with Figure No. 3, which was the modeling
24 grid.

0020 The modeling grid was established
1 based on constant head boundaries along the
2 Illinois River and based on the aquifer
3 pinching out along this bluff.

4 MS. GEVING: For the purposes of
5 clarification of the record, you're
6 referencing Figure 3 from your prefiled
7 testimony?

8 MR. COBB: That's correct.

9 THE HEARING OFFICER: Okay. I'll go
10 ahead and mark this as Exhibit H.

11 (WHEREUPON, a certain document was
12 marked Hearing Exhibit H for
13 identification, as of 4/5/05.)

14 THE HEARING OFFICER: And if you want
15 to go ahead --

16 MS. GEVING: I would move the Board
17 enter that into the record, please.

18 THE HEARING OFFICER: Okay. I have a
19 motion to enter Exhibit H into the record.
20 It's a hearing exhibit, it's entitled
21 Marquette Heights Proposed Maximum Setback
22 Zone In Relation to Potential For Aquifer
23 Recharge. Any objection to that?

24 Seeing none, that will be entered
0021 into the record as Exhibit H.

2 (WHEREUPON, said document,
3 previously marked Hearing
4 Exhibit H, for identification, was
5 offered and received in evidence.)

6 MS. GEVING: Mr. Cobb, I'm now going
7 to show you another document, and if you
8 could identify that, please, for the record.

9 MR. COBB: This is a blown-up copy of
10 Figure No. 3 that was contained within my
11 prefiled testimony.

12 MS. GEVING: At this time I would ask

13 the Board to mark this as an Exhibit I, and
14 we will let Mr. Cobb go ahead and give you
15 any further description of that document
16 before I move that it be entered into the
17 record.

18 (WHEREUPON, a certain document was
19 marked Hearing Exhibit No. I for
20 identification, as of 4/5/05.)

21 MR. COBB: That represents the grid
22 that was used in developing the groundwater
23 flow model. You can see certain areas within
24 that grid that are darker than others and

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1 that's due to a technique called telescoping.
2 You will find the mesh of the grid
3 in the areas where the pumping wells were
4 located. And then you move to a larger curve
5 spacing outside of those pumping stresses.

6 MS. GEVING: I'm going to show you
7 another document, and if you can please
8 identify that for the record.

9 MR. COBB: This figure represents a
10 blown-up copy of Figure No. 4, which was
11 originally contained in my prefiled
12 testimony. And it represents the predicted
13 map of equipotential for -- it's also
14 referred to as a water table map.

15 MS. GEVING: I would ask that the
16 Board identify this for the record as
17 Exhibit J.

18 (WHEREUPON, a certain document was
19 marked Hearing Exhibit J for
20 identification, as of 4/5/05.)

21 MS. GEVING: Mr. Cobb, is there an
22 overlay -- is there a relation between those
23 two documents that you'd like to describe
24 before I make a motion?

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1 MR. COBB: Yes. Figure 3 --

2 THE HEARING OFFICER: Which is -- I'm
3 sorry.

4 MR. COBB: Go ahead.

5 THE HEARING OFFICER: That's what will
6 be marked as Exhibit I.

7 MR. COBB: Okay. Exhibit I is the
8 modeling grid within which the predicted
9 lines of equipotential came from. So there's
10 a direct correlation between the two
11 exhibits.

12 MS. GEVING: If the Board has no
13 questions, I would move that Exhibits I and J
14 be entered into the record.

15 THE HEARING OFFICER: Any objection to
16 that motion?

17 Seeing none -- well, let me take
18 them separately, just to be careful.
19 Exhibit I, any objection into entering that

20 into the record?
21 Seeing none, Exhibit I is entered
22 as a hearing exhibit.

23 The second exhibit, Exhibit J,
24 which states Figure 4 contour map of

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1 equipotential lines indicating groundwater
2 flow patterns 0.5 meters contour interval.
3 Any objection to entering that into the
4 record as a hearing exhibit?

5 Seeing none, those two documents
6 will be entered into the record as Exhibits I
7 and J.

8 (WHEREUPON, said documents,
9 previously marked as Hearing
10 Exhibits I and J, for
11 identification, was offered and
12 received in evidence.)

13 MS. GEVING: Mr. Cobb, I'm going to
14 show you another document and ask you to
15 identify that for the record.

16 MR. COBB: Yes, this is the consent
17 order that the State of Illinois entered into
18 versus Amoco Oil Company, which became --
19 later became BP Amoco. It was entered into
20 the Circuit Court for the 10th Judicial
21 District in Tazwell County.

22 MS. GEVING: I would ask that the
23 Board identify this as Exhibit K for the
24 record and move that that be entered, unless

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1 you have questions.

2 (WHEREUPON, a certain document was
3 marked Hearing Exhibit K for
4 identification, as of 4/5/05.)

5 THE HEARING OFFICER: Any objection to
6 entering the consent order into the record as
7 hearing Exhibit K?

8 Seeing none, the consent order
9 will be entered as Hearing Exhibit K.

10 (WHEREUPON, said document,
11 previously marked Hearing
12 Exhibit K, for identification, was
13 offered and received in evidence.)

14 MS. GEVING: Mr. Cobb, I'm going to
15 show you yet another document and ask you to
16 identify that for the record, please.

17 MR. COBB: Yes, this is the -- this
18 document is the document prepared by RAPP
19 Engineering, who actually did this regional
20 model that we've used here in the Marquette
21 Heights proceeding. This provides the
22 scientific and engineering basis for the
23 modeling and the results of the modeling that
24 I have incorporated by reference into my

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1 prefiled testimony.

2 MS. GEVING: I would ask the Board
3 enter this as Exhibit L and move for that to
4 be done, please.

5 (WHEREUPON, a certain document was
6 marked Hearing Exhibit L for
7 identification, as of 4/5/05.)

8 THE HEARING OFFICER: Any objection
9 for that motion?

10 Seeing none, the RAPPS report,
11 entitled Delineation of Well Head Protection
12 Area is entered as hearing Exhibit L.

13 (WHEREUPON, said document,
14 previously marked Hearing
15 Exhibit L, for identification, was
16 offered and received in evidence.)

17 MS. GEVING: Mr. Cobb, do you have any
18 further summary that you would like to give
19 of any of those documents?

20 MR. COBB: Not at this time.

21 MS. GEVING: I believe that concludes
22 the materials that the Board requested of the
23 Agency.

24 THE HEARING OFFICER: Thank you. Why

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1 don't we go off the record for a moment.

2 (WHEREUPON, discussion was had
3 off the record.)

4 THE HEARING OFFICER: Back on the
5 record.

6 The Agency has concluded its
7 presentation. The Board does not have any
8 further questions at this point in time.

9 I will note, for the record, that
10 no one else has appeared today to testify or
11 ask questions. So we will just move on to a
12 few procedural items before we adjourn.

13 Copies of the transcript of
14 today's hearing should be available at the
15 Board by April 19th or 20th. Shortly after
16 that, the transcript should be available on
17 the Board's website. There you will also
18 find the rulemaking proposal, board orders,
19 public comments and other filings in this
20 docket.

21 I note that anyone may file
22 written public comments on this rulemaking
23 proposal with the Clerk of the Board up to at
24 least 45 days after any first notice proposal

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1 is published in the Illinois Register.
2 However, to ensure that your public comment
3 is considered by the Board in its first
4 noticed decision, I am setting a prefirst
5 notice public comment filing deadline of
6 May 20.

7 As part of the Board's voluntary
8 electronic filing pilot project, public

9 comments in this rulemaking may be filed
10 through the Board's web-based clerk's office
11 online or pool at www.ipcb.state.il.us.

12 Please note that all filings with
13 the clerk must be served on the THE HEARING
14 OFFICER and on those persons on the service
15 list for this rulemaking. Before filing any
16 document with the clerk, please check with me
17 or Sandy Wiley.

18 Her phone number is 312-814-3623.
19 Or she can be reached by e-mail at
20 wileys@ipcb.state.il.us, or you may check the
21 clerk's office just to ensure that you have
22 the most recent version of the service list.

23 If anyone has any questions about
24 the procedural aspects of this rulemaking, I

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1 can be reached by telephone at 312-814-6983
2 or e-mail at mcgillr@ipcb.state.il.us.

3 Are there any other matters that
4 need to be addressed at this time?

5 Seeing none, I'd like to thank
6 everyone for participating today. And this
7 hearing is adjourned.

8 (Which were all the matters heard
9 in the proceedings of this cause
10 this date.)
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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF COOK)

4 I, SHARON BERKERY, a Certified Shorthand
5 Reporter of the State of Illinois, do hereby certify
6 that I reported in shorthand the proceedings had at
7 the hearing aforesaid, and that the foregoing is a
8 true, complete and correct transcript of the
9 proceedings of said hearing as appears from my
10 stenographic notes so taken and transcribed under my
11 personal direction.

12 IN WITNESS WHEREOF, I do hereunto set my
13 hand at Chicago, Illinois, this 15th day of
14 April, 2005.
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Certified Shorthand Reporter

C.S.R. Certificate No. 84-4327.