
Environmental Register

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Letter from the Chairman

During November and December 2009, the Board moved forward in a number of its open rulemaking dockets. Below, I've summarized recent activity. As always, information about these proceedings is available on the Clerk's Office Online (COOL) through our Web site at www.ipcb.state.il.us.

R10-10 Reasonably Available Control Technology (RACT) for Volatile Organic Material Emission from Group III Consumer and Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 218 and 219. On October 23, 2009, the Illinois Environmental Protection Agency (IEPA) filed this proposal under provisions including the "fast-track" rulemaking authority of Section 28.5 of the Environmental Protection Act (Act). The IEPA proposal responds to control techniques guidelines (CTGs) issued by the United States Environmental Protection Agency (USEPA) for Group III Consumer and Commercial Product Categories including: paper, film, and foil coatings; metal furniture coatings; and large appliance coatings. The Board held its first hearing on this proposal on December 9, 2009.



R10-8 In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group II Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219. The IEPA proposed regulations to control emissions of volatile organic material for Group II Consumer & Commercial Products in ozone nonattainment areas. The Board held its second hearing on this proposal on December 8, 2009.

R08-9 Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304. On November 9 and 10, 2009, the Board held hearing days 34 and 35 on this proposal. The Board has also scheduled hearing days on January 13 and 14, 2010.

R07-21 In the Matter of: Site-Specific Rule for City of Joliet Wastewater Treatment Plant Fluoride and Copper Discharges, 35 Ill. Adm. Code 303.432. Joliet originally filed this site-specific rulemaking proposal on May 30, 2007. On December 31, 2009, Joliet filed an amended proposal for site-specific regulation.

R06-22 In the Matter of: NO_x Trading Program: Amendments to 35 Ill. Adm. Code Part 217. In a status report dated December 18, 2009, the IEPA made a request to withdraw the original proposal in this docket. The IEPA also indicated that, at the same time, it will file a new proposal to "sunset" only the trading portions of the NO_x SIP Call Trading program, and retaining the monitoring, recordkeeping and reporting elements as required by the Clean Air Interstate Rule.

R06-20 In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 739, 808, 809. On December 17, 2009, the Board adopted a second-notice opinion and order in this docket. The proposed amendments are intended to exempt from the manifesting requirements of Parts 808 and 809 both used oil defined by and managed in accordance with Part 739 and specific mixtures of used oil and other materials. With regard to those specific mixtures, the Board proposes to amend the Part 739 tracking requirements to include information required by a manifest. The Board opened Subdocket B to address definitions that were not included in the Board's first-notice opinion and order on August 20, 2009.

Please visit the Board website (www.ipcb.state.il.us) for additional information on these rulemakings and the Board's contested case docket.

Sincerely,

A handwritten signature in black ink that reads "G. Tanner Girard". The signature is written in a cursive, slightly slanted style.

Dr. G. Tanner Girard

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Appellate Update

In Response to the Illinois Supreme Court’s Second (March 8, 2008) Supervisory Order in the Case Known as Town & Country II, Third District Reverses Board Opinion Upholding Kankakee County’s Denial of Local Siting Approval for 2003 Application for Expansion of the Kankakee Landfill in County of Kankakee, Illinois, Edward D. Smith, Kankakee County State’s Attorney, Waste Management of Illinois, Inc., and Byron Sandburg v. Illinois Pollution Control Board and County Board of Kankakee County, Illinois, No. 3-04-0271 (cons. With Nos. 3-04-0285 and 3-04-0289) (3rd Dist. Dec. 4, 2009)(reversing Board’s order affirming grant of siting approval in PCB 04-33, 04-34, and 04-35 (cons.) (Mar. 18, 2004))

The landfill siting appeal case known as “Town and Country II”, *i.e.* County of Kankakee, Illinois, Edward D. Smith, Kankakee County State’s Attorney, Byron Sandburg and Waste Management of Illinois, Inc. v. Illinois Pollution Control Board, City of Kankakee, Illinois, Kankakee Regional Landfill, LLC and Town & Country Utilities, Inc., Nos. 3-04-02713-04-02853-04-0289 (cons.), has a long and interesting history before the Board and in the Third District Appellate Court and the Illinois Supreme Court. The case involves appeal of a local government decision concerning site location suitability approval under Section 39.2 of the Environmental Protection Act (Act), 415 ILCS 5/39.2 (2008), and statutory interpretation of relevant provisions. The history of Town & Country II (as well as its predecessor appeal “Town & Country I”) has been reported in these pages in detail, and will not be repeated here. *See, e.g. Environmental Register* No.657 at pp. 2-3 *Environmental Register* No. 652 at pp.5-7 (Oct. 2008), No. 648 at p. 4 (June. 2008), No. 646 at pp. 6-9 (Apr. 2008) and No. 633 at pp. 2-9 (Mar. 2007).

The latest Third District decision in the case was prompted by the Illinois Supreme Court’s March 26, 2009 supervisory order. In a December 4, 2009 35-page precedential opinion scheduled for publication, the Third District Appellate Court reversed the Board’s March 18, 2004 order affirming the grant of a 2003 application for local siting approval in the appeal captioned County of Kankakee, Illinois, Edward D. Smith, Kankakee County State’s Attorney, Waste Management of Illinois, Inc., v. Illinois Pollution Control Board and County Board of Kankakee County, Illinois, No. 3-04-0271 (cons. With Nos. 3-04-0285 and 3-04-0289) (3rd Dist. Dec. 4, 2009) (T & C II, 3rd Dist. Dec. 2009). Justice McDade delivered the opinion, with Justice Schmidt concurring, and Justice Holdridge concurring in part and dissenting in part in a five-page written concurrence.

As recited in the court’s opinion, following an unsuccessful application in 2002 (appealed in Town & Country I), in 2003 Town and Country Utilities (Town & Country) and the Town & Country Regional Landfill, Inc., as joint applicants, filed a new application for site location suitability approval under Section 39.2 of the Act with the siting authority, the City Council of the City of Kankakee. The City Council approved the application. Various objectors (Kankakee County, Waste Management of Illinois, and Byron Sandburg) separately appealed to the Board. In a consolidated decision, the Board affirmed the County. T & C II, slip op. at 2, 5-6 (3rd Dist. Dec. 2009).

The court summarized its findings as follows:

- (1) Applicants’ 2002 request was disapproved for purposes of subsection 39.2 (m) of the Act when the Board reversed the City’s (sic) Council’s decision on the 2002 application on the grounds the Council erred if finding that the proposed landfill met the criterion in subsection 39.2(a)(ii) of the Act; (2)

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remand is not necessary to determine whether Applicants' 2003 request was substantially similar to their 2002 request because their 2003 request fails to satisfy all of the criteria in Section 39.2(a) (415 ILCS 5/39.2(a) (West 2004)); and our finding that the 2003 application fails to satisfy all of the statutory criteria is dispositive because all of the statutory criteria must be met as a precondition for local siting approval. T & C II, slip op. at 7 (3rd Dist. Dec. 2009).

Construction of Section 39.2(m) to Include Board Decisions on Appeal as "Disapproval"

The court recited that Section 39.2(m) of the Act provides that

An applicant may not file a request for local siting approval which is substantially the same as a request which was disapproved pursuant to a finding against the applicant under any of criteria (i) through (ix) of subsection (a) of this Section within the preceding 2 years. 415 ILCS 5/39.2(M) (West 2004). T & C II, slip op. at 7 (3rd Dist. Dec. 2009).

Applying a *de novo* standard of review, the court determined that the Board's ruling on appeal under Section 40.1 of the Act, 415 ILCS 5/40 (2004) was a "disapproval" within the meaning of Section 39.2 just as is a local siting authority's decision under Section 40.1(a). T & C II, slip op. at 7-10 (3rd Dist. Dec. 2009). The court went on to state that

Although our holding, standing alone, would seem to require an analysis of the effect of the Board's failure to determine whether Applicants' 2003 request was substantially similar to their 2002 request, we do not believe that substantial inquiry into the matter is either necessary to comply with the supreme court's supervisory order or prudent in this case.

We are all in agreement on the remaining issues in this case. Our holding on the issue of whether the proposed facility is consistent with the County's solid waste management plan is dispositive because, regardless of whether applicants are restricted from filing their request by section 39.2 (m), their request fails to satisfy all of the statutory criteria, and all of the statutory criteria must be met as a precondition for siting approval. Stated differently, the Board's failure to consider the substantial similarity issue is of no effect on the ultimate outcome of these proceedings, and, consistent with direction from the supreme court, we will not waste judicial resources on further analysis. In re Alfred H.H., 233 Ill. 2d 345, 351, 910 N. E. 2d 74, 78 (2009). T & C II, slip op. at 10 (3rd Dist. Dec. 2009) (quotation omitted).

Notice Requirements of Section 39.2(b) Met

The County argued that the Applicants had failed to make proper notice of the application by registered mail or personal service on neighboring landowners as provided in Section 39.2(b) of the Act. T & C II, slip op. at 11 (3rd Dist Dec. 2009). The court stated that it was applying the *de novo* standard of review, since facts were undisputed. *Id.* At issue was service to the six co-owners of the Bradshaw farm. Judith Skates was listed as the taxpayer of record, and the applicants sent notice to her at her address in Onarga, Illinois. The County's tax records listed a Rock Falls, Illinois address for the other five owners, along with "mailing flags" not to send tax bills and notices to these five owners at Skates' request. *Id.*, slip op. at 11-12, 14. The applicants sent one notice of the 2003 application listing the names of the other five remaining owners at the same Onarga address "C/O Judith Skates." Applicants presented testimony that they had tried to mail notice of the 2002 application to the Rock Falls address, and been advised that the only way to contact them was through Judith Skates. *Id.*, slip op. at 11-12, 14.

The court rejected the County's arguments that separate notices should have been sent to the five owners at their "last known address," as this phrase is not included in the plain language of Section 39.2. T & C II, slip op. at 11 (3rd Dist Dec. 2009). The court also determined that separate mailings were not required to be sent to each of the co-owners of property, and found that Applicants' efforts complied with the requirements of Section 39.2(b). *Id.* at 18-19.

County's Proceedings Were Fundamentally Fair

The court recited the requirement of Section 40.1(a) of the Act requiring the Board, *inter alia*, to consider "the fundamental fairness of the procedures used by the *** governing body of the municipality in reaching its decision." T & C II, slip op. at 19 (3rd Dist Dec. 2009)(*** in original). The court stated that

it would not reverse the Board's findings that the proceedings were fundamentally fair unless they were "clearly erroneous." *Id.* at 20.

The court rejected the claim that the County had prejudged the 2003 application, based on lawsuits filed by the City against the County challenging 1) in 2002, alleged County misuse of funds derived from solid waste disposal, 2) in 2003, 2001 amendments to the County solid waste management plan that excluded all new landfills save for expansion of an existing management operated by Waste Management. T & C II, slip op. at 20-22 (3rd Dist Dec. 2009).

The court disagreed with the County's claim that these actions demonstrated bias or prejudgment of the applicants' 2003 siting request:

Rather, to a disinterested observe, the 2002 lawsuit would signal concern about the availability of recycling and solid-waste disposal funds, and the 2003 suit would signal concern about safeguarding the City's home rule power. T & C II, slip op. at 22 (3rd Dist Dec. 2009).

The court accordingly found no reversible error. *Id.* The court did not address the County's additional arguments on fundamental fairness, turning instead to another issue involving the County's amended solid waste management plan. *Id.*

Applicants' Failure to Satisfy Section 39.2(a)(viii) Criterion

Where a county has adopted a solid waste management plan under the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Plan, Section 39.2 (a)(viii) requires a siting applicant to demonstrate that its "facility is consistent with that plan." T & C II, slip op. at 20-22 (3rd Dist Dec. 2009). The court stated that the County had adopted its plan in 1993, and amended it in 1995, 2001, 2002, and 2003. The amendment at issue was the 2001 amendment that excluded all new landfills save for expansion of an existing management operated by Waste Management. *Id.* at 23.

The court related that in February of 2002, the Town & Country applicants had announced their intentions to seek approval of a new landfill to be located within the City of Kankakee. About one month later, the City adopted the resolution containing the 2002 amendment "to clarify the intent and the purpose" of the 2001 amendment, to state that if approval were granted for a waste management expansion, then "no new facilities would be necessary." T & C II, slip op. at 23 (3rd Dist Dec. 2009). In August of 2002, the City granted siting approval in Town & Country I, which the Board reversed in January 2003. One month later, 24 hours before the filing of the Applicants' 2003 application the City adopted the resolution containing the 2003 amendment stating that any landfill "noncontiguous" with the existing Waste Management landfill "is inconsistent with this Plan." *Id.* at 24-26. Town & Country presented testimony to the City Council that its proposed sites was in "close proximity" to the existing Waste Management landfill, being located "probably about a mile and three quarters" from it. Town & Country presented further testimony that the amendments to the plan created ambiguity and room for interpretation. *Id.* at 26-27.

The court stated that the City's written decision noted procedural defects in the County's adoption of its solid waste management plan, but that the City nonetheless determined that Town & Country's 2003 application was consistent with the County plan as it was near, and in an area contiguous with the exiting landfill. But, even while acknowledging that it lacked the authority to make a finding about the validity of the plan, the City opined that the County plan violated the City's statutory and constitutional authority as a home rule unit of government to site a landfill. T & C II, slip op. at 27 (3rd Dist Dec. 2009). The court noted that, on appeal, the Board refused to consider the validity of the County's amendments to the plan, and affirmed the City's finding that the "consistency" criterion in Section 39.2(a)(viii) had been met. *Id.* at 28 (3rd Dist Dec. 2009).

The court undertook a *de novo* review of the issue as to whether the Town & Country site is contiguous with the existing Waste Management landfill. T & C II, slip op. at 28 (3rd Dist Dec. 2009). In reviewing the language of the County's various plan amendments, the court determined that the word "adjacent" must be construed in addition to the word "contiguous." *Id.* at 29-30 (3rd Dist Dec. 2009). The court noted that common dictionary definitions of "contiguous" indicate that it can mean "sharing a boundary; touching", or "nearby or adjacent." The court found the language of the County plan ambiguous, *Id.* at 30 (3rd Dist Dec. 2009), and further found that the County had intended to preclude the proposed Town & Country

landfill site as it was only nearby, but did not share a boundary with, the Waste Management landfill. Accordingly, the court found that “the Board committed reversible error” when it found that the 2003 application was consistent with the County solid waste management plan. *Id.* at 34 (3rd Dist Dec. 2009). The court declined to address the Applicant’s other claims regarding constitutionality of the County plan and the City’s home rule powers, as they had not been previously adjudicated or properly raised. *Id.* Finding that the consistency criterion had not been met, the court stated that there was no reason to address any remaining issues raised in the briefs. *Id.* The court’s conclusion, therefore, was that “we reverse the decision of the Board.” *Id.* at 35 (3rd Dist Dec. 2009).

Justice Holdridge Opinion Concurring In Part and Dissenting in Part

In a separate five-page opinion, Justice Holdridge dissented from the majority’s conclusion that a Board decision in an appeal of a local siting decision is a “disapproval” within the meaning of Section 39.2 of the Act. T & C II, concurring op. at 1-4 (3rd Dist Dec. 2009).

Under his analysis, the justice concluded that the “substantial-similarity” question involving the 2002 and 2003 applications need not be reached. But, the justice believed that the majority should have addressed the issue per the Supreme Court advisory order.

The justice noted, however, that he agreed with the majority’s conclusions on the other issues the majority reached: notice, fundamental fairness, and consistency with the county solid waste management plan. *Id.* at 4-5.

Rulemaking Update

Splitting the Docket, Board Adopts Second Notice Opinion and Order in Docket A, and Proposes Three New Definitions in Docket B in Proposed Amendments to the Board’s Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 808, 809, R06-20

On December 17, 2009, the Illinois Pollution Control Board split into subdockets the matter now captioned Proposed Amendments to the Board’s Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 808, 809, R06-20, Dockets A & B (Dec. 17, 2009). NORA, formally known as the National Oil Recycling Association, filed the original proposal seeking regulatory relief on December 13, 2005. Following three public hearings on the NORA proposal, on August 20, 2009 the Board adopted a second first notice proposal. Following an extended public comment period, the Board in R06-20, Docket A adopted a second notice opinion and order adopting the bulk of the rule proposal for review by the Joint Committee on Administrative Review (JCAR).

But, the public comments of Illinois Environmental Protection Agency (IEPA) also, for the first time requested that the Board add definitions in Sections 739.100, 808.110, and 809.103 for the terms “wastewater,” “Btu,” and “classification.” To accommodate IEPA concerns while proceeding to completion of the bulk of NORA’s proposal, the Board also opened R06-20 Docket B to propose definitions which were not included in the Board’s second first-notice opinion and order. These actions potentially allow the Board to adopt any Docket A final rules approved by JCAR while the trailer Docket B remains open for public comment.

The proposed amendments in Docket A are intended to exempt from the manifesting requirements of Parts 808 and 809 both used oil defined by and managed in accordance with Part 739, and specific mixtures of used oil and other materials. Specifically, the Board adopted for second-notice amendments designed to exempt from manifesting requirements of Parts 808 and 809 the following: (1) used oil, defined by and managed in accordance with Part 739; (2) mixtures of used oil and hazardous waste, both mixed and generated by a conditionally exempt small quantity generator, provided that mixture contains more than 50 percent used oil by volume or weight; (3) used oil containing characteristic hazardous waste, with a BTU per pound content greater than 5000, where the characteristic (*e.g.* ignitability) has been extinguished, and both the used oil and the characteristic hazardous waste has been generated and mixed by the same generator, and which contain more than 50 percent of used oil by weight or volume; (4) mixtures of used oil and fuels or other fuel products; and (5) used oil contaminated by or mixed with nonhazardous wastewater, both generated by the same generator and where the mixture results from use or unintentional contamination.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board’s Web site and may be downloaded from the Web without charge. Hard copies may be obtained for \$.75 per page from the Clerk’s office: Clerk of the Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.

For more information contact Tim Fox at (312)-814-6085 or email at foxt@ipcb.state.il.us.

Board Actions

December 3, 2009

Chicago, Illinois

Adjudicatory Cases

PCB 97-193	<u>People of the State of Illinois v. Community Landfill Company, Inc.</u>	5-0
PCB 04-207	<u>People of the State of Illinois v. Edward Pruim and Robert Pruim</u> – The Board granted respondents’ motion to modify the Board’s November 5, 2009 order, modifying the order to direct the payment of the civil penalty by January 5, 2010, unless the payment is stayed by either the Board or the Appellate Court.	L-E
PCB 07-47	<u>People of the State of Illinois v. City of Pekin</u> – In this water enforcement action concerning a Tazewell County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2008)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$14,483.00, and to cease and desist from further violations.	5-0 W -E
PCB 07-70	<u>People of the State of Illinois v. J. B. Timmermann Farms, Ltd.</u> – In this water enforcement action concerning a Clinton County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2008)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$15,000.00, and to cease and desist from further violations.	5-0 W-E
PCB 07-124	<u>People of the State of Illinois v. Kraft Foods Global, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a DuPage County facility, the Board accepted the case and ordered publication of the required newspaper notice.	5-0 W-E
PCB 07-146	<u>Fox Moraine, LLC v. United City of Yorkville, City Council: Kendall County, Intervenor</u> – The Board denied petitioner’s motion to reconsider the Board’s October 1, 2009 opinion and order, affirming the City of Yorkville’s denial of siting approval for a new landfill.	4-0 Member Zalewski abstained P-C-F-S-R
PCB 08-7	<u>People of the State of Illinois, ex rel. Lisa Madigan, Attorney General of the State of Illinois v. Union Pacific Railroad Company</u> – The Board denied petitioner’s motion to reconsider the Board’s August 20, 2009 order denying	5-0 W-E

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the motion to sever claims.

PCB 08-101	<u>Waste Management of Illinois, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal.	5-0 P-A, Water
PCB 09-30	<u>People of the State of Illinois v. Montalbano Builder’s Inc.</u> – In this water enforcement action concerning a McHenry County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2008)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$10,000.00, and to cease and desist from further violations.	5-0 W-E
PCB 10-9	<u>People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Archer Daniels Midland, Inc., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., Combe Laboratories, Inc., General Electric Railcar Services Corporation, P & H Manufacturing, Inc., Trinity Rail Group, Inc., Tripple S Refining Corporation and Zexel Illinois, Inc</u> – The Board granted the motion for leave to appear <i>pro hac vice</i> of Matthew L. Larsen and William J. Denton filed by Hexion Specialty Chemicals, Inc. The Board also granted the complainant’s motion to amend the complaint and Caterpillar, Inc. motion to be dismissed as a respondent.	5-0 L-E
PCB 10-16	<u>Detrex Corporation v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no permit appeal was filed on behalf of this facility located in Cook County.	5-0 P-A, Land
PCB 10-17	<u>Hydromet Environmental, Inc. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no permit appeal was filed on behalf of this facility located in Douglas County.	5-0 P-A, Land
PCB 10-23	<u>United States Steel Corporation, a Delaware corporation v. IEPA</u> – The Board granted the motion of American Bottom Conservancy (ABC) to intervene. The Board also granted the motion of Robert R. Kuehn to appear <i>pro hac vice</i> on behalf of ABC.	5-0 P-A, Air
PCB 10-32	<u>Highland Baking Company v. IEPA</u> – The Board granted petitioner’s motion for a partial stay of contested permit conditions.	5-0 P-A, Air
PCB 10-35	<u>North American Gas Station (F/N/A Intermart, Inc.) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Kane County facility.	5-0 UST Appeal
PCB 10-37	<u>Niebrugge Oil Company v. IEPA</u> – The Board accepted this underground storage tank involving a Shelby County facility as timely filed but deficient due to the attempted consolidation of two appeals in one petition. The Board directed the filing of amended petitions in PCB 10-37 and the reserved docket PCB 10-40 along with a filing fee. The amended petitions must be filed by January 4, 2010.	5-0 UST Appeal
PCB 10-38	<u>Paradigm Properties, Inc. (Incident-Claim No.: 20090-183-56957) v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Coles County facility.	5-0 UST Appeal 90-Day

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Extension

PCB 10-39	<u>Paradigm Properties, Inc. (Incident-Claim No.: 20090-183-57514) v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank on behalf of this Coles County facility.	5-0 UST Appeal 90-Day Extension
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December 17, 2009 Chicago, Illinois

Rulemakings

R 06-20	<u>In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 739,808,809</u> – In	5-0 Land
Docket A	Docket A, the Board adopted a second notice opinion and order in this rulemaking to amend the Board’s regulations concerning special waste manifests and tracking requirements as they pertain to used oil recycling.	
Docket B	The Board opened a Docket B in this rulemaking in order to address definitions in Sections 739.100, 808.110, and 809.103, which were not included in the Board’s second first-notice opinion and order. <i>See</i> 35 Ill. Adm. Code 739.100, 808.110, 809.103. The Board adopted a first notice opinion and order Docket B.	

Adjudicatory Cases

PCB 97-193	<u>People of the State of Illinois v. Community Landfill Company, Inc.</u>	4-0
PCB 04-207	<u>People of the State of Illinois v. Edward Pruum and Robert Pruum</u> – The Board denied respondents’ motion for stay pending appeal.	L-E Zalewski abstained
PCB 07-68	<u>People of the State of Illinois v. Chippewa Loft, LLC</u> – In this land enforcement action concerning a Madison County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2008)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$33,000.00, and to cease and desist from further violations. In addition, respondent agreed to perform a supplemental environmental project (SEP), consisting of paying \$12,000 to fund an upgrade of the City of Collinsville’s water disinfection system.	5-0 A -E
PCB 09-22	<u>People of the State of Illinois v. William Warren</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this public water supply enforcement action involving a Clinton County facility, the Board ordered publication of the required newspaper notice.	5-0 PWS-E
PCB 09-102	<u>Peter Arendovich v. the Illinois State Toll Highway Authority</u> – The Board accepted the complaint and amended complaint for hearing. The Board granted respondent’s motions to dismiss in part by striking allegations of violations of the federal rules.	5-0 Citizens, N-E
PCB 10-12	<u>People of the State of Illinois v. Hicks Oils & Hicksgas, Inc.,</u> – The Board granted complainant’s contested motion to strike affirmative defenses and respondent’s motion for leave to file amended affirmative defenses.	5-0 W-E

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PCB 10-27	<u>Lockport/ConocoPhillips v. IEPA</u> – The Board dismissed this underground storage tank appeal on behalf of this facility located in Will County for failure to file an amended petition.	5-0 UST Appeal
PCB 10-29	<u>People of the State of Illinois v. Waste Management of Illinois, Inc., a subsidiary of Waste Management, Inc.</u> – In this water enforcement action concerning a Knox County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2008)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$9,500.00, and to cease and desist from further violations.	5-0 W-E
PCB 10-30	<u>ExxonMobil Oil Corporation v. IEPA</u> – The Board granted petitioner’s motion to stay effectiveness of contested permit conditions of the permit.	5-0 P-A, Water
PCB 10-41	<u>Prather Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Jersey County facility.	5-0 UST Appeal
PCB 10-42	<u>New Horizon Pork, LLC – Roanoke</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of New Horizon Pork, LLC located in Woodford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).	5-0 T-C, W

New Cases

December 3 2009 Board Meeting

10-35 North American Gas Station (F/N/A Intermart, Inc.) v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Kane County facility.

10-36 Susan Malinowski v. Chicago Transit Authority – No action taken.

10-37 Niebrugge Oil Company v. IEPA – The Board accepted this underground storage tank involving a Shelby County facility as timely filed but deficient due to the attempted consolidation of two appeals in one petition. The Board directed the filing of amended petitions in PCB 10-37 and the reserved docket PCB 10-40 along with a filing fee. The amended petitions must be filed by January 4, 2010.

10-38 Paradigm Properties, Inc. (Incident-Claim No.: 20090-183-56957) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Coles County facility.

10-39 Paradigm Properties, Inc. (Incident-Claim No.: 20090-183-57514) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank on behalf of this Coles County facility.

December 17, 2009 Board Meeting

10-41 Prather Oil Company v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Jersey County facility.

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10-42 New Horizon Pork, LLC – Roanoke – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of New Horizon Pork, LLC located in Woodford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).

AC 10-09 IEPA v. Tony A. Luttrell – The Board accepted an administrative citation against this Clay County respondent.

AC 10-10 IEPA v. Jess Spradlin, d/b/a Spradlin Motor Homes and Drenward Woods and Kris Warren, d/b/a W&W Auto Service – The Board accepted an administrative citation against these Sangamon County respondents.

Calendar

1/06/10 10:00 AM	R10-10	<u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions From Group III Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 218 and 219</u> (Continues until complete or through January 8, 2010)	Michael A. Bilandic Building Room N-505 160 N. LaSalle Street Chicago
1/7/10 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
1/13/10 9:00 AM	R08-09	<u>In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System (CAWS) and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304</u> (Continues until complete or through January 14, 2010)	James R. Thompson Center Room 09-040 100 W. Randolph Chicago
1/20/10 9:30 AM	PCB 10-01	<u>Weeke Oil Company v. IEPA</u>	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue E North Entrance Springfield
1/21/10 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
2/4/10 11:00 am	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
2/18/10 11:00 am	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

DIVISION OF WATER POLLUTION CONTROL

RESTRICTED STATUS LIST

In order to comply with 35 Illinois Administrative Code Section 306.401, Illinois Pollution Control Board Regulations, the Illinois EPA has prepared the following list of facilities which are on Restricted Status. Restricted Status is defined as the Agency determination that a sewer or lift station has reached hydraulic capacity or that a sewage treatment plant has reached design capacity, such that additional sewer connection permits may no longer be issued without causing a violation of the Act or Regulations. Please note that the list is continually being revised to reflect the current situation. Therefore, if you have any questions on the capability of a treatment facility or transport system, please contact this Agency for a final determination. This listing reflects the status as of December 31, 2009.

Facility names followed by an asterisk (*) indicates that construction is underway to ultimately alleviate problems, which resulted in imposition of Restricted Status. Facilities followed by a double asterisk (**) are additions to the list.

<u>FACILITY NAME</u>	<u>RESPONSIBLE AUTHORITY</u>	<u>COUNTY</u>	<u>REMAINING CAPACITY</u>
Bourbonnais (Belle Aire Subd.)	Village of Bourbonnais	Kankakee	0
Camelot Utilities Wastewater Collection System	Camelot Utilities	Will	0
Camp Point (a portion mh 60-68)	Village of Camp Point	Adams	0
Clearview S.D.	Clearview S.D.	McLean	0
Davis Junction	Village of Davis Junction	Ogle	0
East Alton	City of East Alton	Madison	0
Farmington	City of Farmington	Fulton	0
Hurst & Blairville Collection System	City of Hurst	Williamson	0

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Port Byron STP	Village of Port Byron	Rock Island	0
Rosewood Heights S.D.- Ninth Street LS	Rosewood Heights S.D.	Madison	0
South Palos Twp. SD	South Palos Twp.	South Palos Twp.	0
Sundale Utilities – Washington Estates STP	Sundale Utilities Corporation	Tazewell	0
Taylorville-Shawnee Ave. Pump Station	City of Taylorville	Christian	0
Utilities Unlimited	Utilities Unlimited	Will	0
Washington (Rolling Meadows)	City of Washington	Tazewell	0

Deletions from previous quarterly report: None

Additions from previous quarterly report: None

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

DIVISION OF WATER POLLUTION CONTROL

CRITICAL REVIEW LIST

In order to comply with 35 Illinois Administrative Code Section 306.401, Illinois Pollution Control Board Regulations, the Illinois Environmental Protection Agency has prepared the following list of facilities which are on Critical Review. Critical Review as defined as the Agency determination that a sewer or lift station is approaching hydraulic capacity or that a sewage treatment plant is approaching design capacity such that additional sewer connection permit applications will require close scrutiny to determine whether issuance would result in a violation of the Act or Regulations. Please note that these lists are continually being revised to reflect the current situation. Therefore, if you have any questions on the capability of a treatment facility or transport system, please contact the Agency for a final determination. This listing reflects the status as of December 31, 2009.

Facility names followed by a double asterisk (**) are additions to the list.

<u>FACILITY NAME</u>	<u>RESPONSIBLE AUTHORITY</u>	<u>COUNTY</u>	<u>REMAINING CAPACITY</u>	<u>PE ADDED SINCE LAST LIST</u>
Algonquin	Village of Algonquin	Kane	0	0
Aqua Illinois, Inc.	Aqua Illinois, Inc.	Will	674	0
University Park				
Antioch STP	Village of Antioch	Lake	325	0
Beardstown SD	City of Beardstown	Cass	1485	0
Benton-Southeast STP	City of Benton	Franklin	60	0
Bethalto (L.S. #1)	Village of Bethalto	Madison	87	0
Carrier Mills	Village of Carrier Mills	Saline	836	0
Carrollton	City of Carrollton	Greene	140	0
Citizens Utilities Co. of Ill.- River Grange	Citizens Utilities Co. of Ill.	Will	10	0
Charleston	City of Charleston	Coles	4,895	91
Downers Grove S.D.	Downers Grove S.D.	DuPage	0	0
East Dundee STP	Village of E. Dundee	Kane	460	0
Elkville	Village of Elkville	Jackson	6	0
Ferson Creek Utilities Co.	Utilities, Inc.	Will	70	0
Harvard WWTP	City of Harvard	McHenry	0	0
Hinkley	Village of Hinckley	DeKalb		
LCPWD-Diamond- Sylvan STP	County of Lake Public Works Department	Lake	0	0
Lockport	City of Lockport	Will County	0	0
Moline (North Slope)	City of Moline	Rock Island	1,151	0
Morris STP	City of Morris	Grundy	0	0

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New Lenox STP 1***	Village of New Lenox	Will	0	0
Paris STP	City of Paris	Edgar	0	60
Richmond WWTP	City of Richmond	McHenry		
Rock Island (Main)	City of Rock Island	Rock Island	2,704	0
Streator	City of Streator	LaSalle/ Livingston	449	0
Wasco Sanitary District	Wasco Sanitary District	Kane	637	
Wauconda WWTP	Village of Wauconda	Lake	0	0

Deletions from previous quarterly report: None

Additions from previous quarterly report: None

***Contact IEPA – Permit Section

MAP:\epa1176\rscr\dec4q09final.doc

Class III Groundwater Listing Notice

In accordance with 35 Ill. Adm. Code 620.230(b)(2), the Illinois Environmental Protection Agency (“Illinois EPA”) proposes to list Armin Krueger Cave, Bluff Spring Fen, Illinois Beach, Volo Bog, Braidwood Dunes, Lake-In-The-Hills Fen, Lockport Prairie, Romeoville Prairie, and Elizabeth Lake, all dedicated nature preserves (“DNP”), as Class III: Special Resource Groundwater. This is the fourth Class III petition received by the Illinois EPA, and the second to include multiple DNPs.

Based upon the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the Illinois EPA. The Illinois EPA is required to review a written request to list DNPs, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP(s) in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the comment period, the Illinois EPA is required to publish a final listing in the Environmental Register, or provide the requestor with a written response specifying reasons for not publishing a final listing.

The Groundwater Section of the Bureau of Water, at the Illinois EPA, has completed the review required according to the criteria specified in Subsection 620.230(b)(1) and finds the petition to be technically adequate. Therefore, the Illinois EPA is requesting that the proposed listings of Armin Krueger Cave, Bluff Spring Fen, Illinois Beach, Volo Bog, Braidwood Dunes, Lake-In-The-Hills Fen, Lockport Prairie, Romeoville Prairie, and Elizabeth Lake be published for a 45-day public comment period in the Environmental Register. The attached notice statement is provided for publication. Questions regarding the proposal and hard copies of the petition and can be obtained from the following:

Lynn E. Dunaway, P.G.
Groundwater Section
Division of Public Water Supplies
Bureau of Water
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 785-4787
lynn.dunaway@illinois.gov

Armin Krueger Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Armin Krueger Speleological Area, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. The Armin Krueger Speleological Area is a cave located in southwest Monroe County, Illinois, approximately 10 miles south of Waterloo. This cave is part of the larger Krueger-Dry Run Cave System. Armin Krueger includes high to very high quality terrestrial and aquatic cave communities. Included is habitat for the federally endangered Illinois cave amphipod. Armin Krueger is a 105 acre tract located in Section 29 of Township 3 South, and Range 9 West of the Third Principal Meridian. This privately owned DNP is part of the Krueger-Dry Run Cave System. The groundwater contribution area is 5.38 square miles of karst landscape stretching westward from the nature preserve, determined by Ozark Underground Laboratory, using dye-trace methods.

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Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the Illinois EPA. The Illinois EPA is required to review a written request to list DNPs, and upon confirmation of the technical adequacy, publish the proposed listings of the DNP(s) in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the comment period, the Illinois EPA is required to publish a final listing in the Environmental Register.

The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

Bluff Spring Fen Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Bluff Spring Fen, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. The Bluff Spring Fen is located in western Cook County, Illinois, in the City of Elgin. Bluff Spring represents an excellently preserved natural landscape with rare plant species and diverse ecological communities. Fens are the rarest wetland type in North America, and rely on naturally mineralized groundwater to support their biological communities. Bluff Spring Fen is a 94.3 acre tract jointly owned by the Metropolitan Water Reclamation District of Greater Chicago and the City of Elgin. The fen is located in portions of Sections 19 and 30, of Township 41 North, Range 9 East of the Third Principal Meridian. The regional groundwater contribution area totals 3.49 square miles extending to the northeast, southeast and south of the preserve, and was estimated using an adjusted surface watershed area.

Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the Illinois EPA. The Illinois EPA is required to review a written request to list DNPs, and upon confirmation of the technical adequacy, publish the proposed listings of the DNP(s) in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the comment period, the Illinois EPA is required to publish a final listing in the Environmental Register.

The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

Illinois Beach Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Illinois Beach, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Illinois Beach is a wetland habitat located in eastern Lake County, Illinois, about 3 miles northeast of Waukegan. Illinois Beach is Illinois's first DNP, and is a National Natural Landmark designated by the U.S. Department of Interior. Illinois Beach provides habitat for more than three dozen species of Illinois threatened and endangered plants and over a dozen threatened and endangered animals. The beach is an 829 acre area adjacent to Lake Michigan and part of the larger Illinois Beach State Park. The DNP is situated in Sections 2, 3, 10 and 11 of Township 45 North, Range 12 East and portions of Sections 34 and 35 in Township 46 North, Range 12 East of the Third Principal Meridian. The groundwater contribution area for this preserve extends 2.6 square miles to the west, estimated using an adjusted surface water area.

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Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the Illinois EPA. The Illinois EPA is required to review a written request to list DNPs, and upon confirmation of the technical adequacy, publish the proposed listings of the DNP(s) in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the comment period, the Illinois EPA is required to publish a final listing in the Environmental Register.

The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

Volo Bog Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Volo Bog, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Volo Bog is a quaking peatland located in western Lake County, Illinois, in the unincorporated community of Ingleside, Illinois. Volo Bog is unique in Illinois because it is the only natural area in the State that represents all of the successional stages of a quaking peatland. Groundwater is key to the preservation of peat bogs in Illinois because hot dry summers would stop the accumulation of peat if the bog were not kept inundated by groundwater discharging to it. This DNP is a 186 acre tract in a portion of Section 28 of Township 45 North, Range 9 East of the Third Principal Meridian. The groundwater contribution area (GCA) is 1 square mile around the bog to the north and southeast situated within the larger Volo Bog State Natural Area. The final GCA was estimated using an adjusted surface watershed area.

Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the Illinois EPA. The Illinois EPA is required to review a written request to list DNPs, and upon confirmation of the technical adequacy, publish the proposed listings of the DNP(s) in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the comment period, the Illinois EPA is required to publish a final listing in the Environmental Register.

The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

Braidwood Dunes Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Braidwood Dunes, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Braidwood Dunes and Savanna Nature Preserve is located in southwestern Will County, Illinois, about a mile east of the City of Braidwood. This preserve retains many of its pre-settlement characteristics. It is composed of dry sand savanna, dry sand and wet prairie, sedge meadows and marsh. The preserve is owned by the Forest Preserve District of Will County and is a 330 acre region in Section 16 of Township 32 North, Range 9 East of the Third Principal Meridian. The groundwater contribution area (GCA) is .84 square miles that extends slightly south of the DNP. The GCA was estimated using site-specific regional GCA data from Conestoga Rovers & Associates, July 2007.

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Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the Illinois EPA. The Illinois EPA is required to review a written request to list DNPs, and upon confirmation of the technical adequacy, publish the proposed listings of the DNP(s) in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the comment period, the Illinois EPA is required to publish a final listing in the Environmental Register.

The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

Lake-In-The-Hills Fen Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Lake-In-The-Hills Fen, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Lake-In-The-Hills Fen is located in southern McHenry County, Illinois, jointly owned by the Village of Lake-In-The-Hills, Illinois Department of Natural Resources and the McHenry County Conservation District. This Fen is one of the largest and most diverse identified in Illinois. The site contains sedge meadow, graminoid fen, low shrub fen, marsh, calcareous seeps, floating mats and dry gravel prairie. In addition, it is home to nearly two dozen species of Illinois threatened and endangered plants and animals. The tract is 187.7 acres, found in portions of Section 17, 20 and 21 of Township 43 North, Range 8 East of the Third Principal Meridian. The groundwater contribution area (GCA) is 6.8 square miles extending northwest of the preserve, estimated by merging regional GCA data with the adjusted surface watershed area.

Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the Illinois EPA. The Illinois EPA is required to review a written request to list DNPs, and upon confirmation of the technical adequacy, publish the proposed listings of the DNP(s) in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the comment period, the Illinois EPA is required to publish a final listing in the Environmental Register.

The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

Lockport Prairie Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Lockport Prairie, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Lockport Prairie is located in northern Will County, Illinois, in the City of Lockport. It is owned by Metropolitan Water Reclamation District of Greater Chicago and managed by the Forest Preserve District of Will County. A portion of the Lockport Prairie is composed of wet-mesic dolomite prairie. This prairie type is so rare; fewer than 36 acres exist in the entire State. The unique hydrogeologic setting results in extremely rare natural communities including State and Federally threatened and endangered species. The area of the preserve is a 222 acre tract in parts of Sections 22, 27 and 28 of Township 36 North, Range 10 East of the Third Principal Meridian. The final groundwater contribution area (GCA) for Lockport Prairie is 5.3 square miles stretching from the northwest, constructed by combining regional GCA with the adjusted surface watershed area.

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Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the Illinois EPA. The Illinois EPA is required to review a written request to list DNPs, and upon confirmation of the technical adequacy, publish the proposed listings of the DNP(s) in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the comment period, the Illinois EPA is required to publish a final listing in the Environmental Register.

The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

Romeoville Prairie Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Romeoville Prairie, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Romeoville Prairie is located in northern Will County, Illinois, in the Village of Romeoville, managed by the Forest Preserve District of Will County. Romeoville Prairie contains wet to mesic dolomite prairie as well as marsh, sedge meadow, springs, fens and flood plain forest. A dozen State and Federally threatened and endangered species can be found in this DNP. The area of this preserve is 155 acres, situated in portions of Sections 27 and 34 of Township 37 North, Range 10 East of the Third Principal Meridian. The final groundwater contribution area (GCA) for this prairie is 2.8 square miles extending from the northwest, estimated by combining regional CGA and the adjusted surface watershed area.

Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the Illinois EPA. The Illinois EPA is required to review a written request to list DNPs, and upon confirmation of the technical adequacy, publish the proposed listings of the DNP(s) in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the comment period, the Illinois EPA is required to publish a final listing in the Environmental Register.

The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

Elizabeth Lake Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Elizabeth Lake, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Elizabeth Lake is a wetland habitat located in northeast McHenry County, Illinois, about 2 miles east of Richmond. A variety of physical and chemical environments exist within this DNP. There are high quality pond, marsh graminoid bog, graminoid fen and calcareous floating mat communities represented. In addition to these wetland habitats, creek, sedge meadow and dry savanna habitats support over a dozen Illinois threatened and endangered species. The preserve is 218.7 acres, owned by the McHenry County Conservation District. It is found in Section 3 of Township 46 North, Range 8 East of the Third Principal Meridian. The groundwater contribution area (GCA) for the requested area is 2.8 square miles surrounding the preserve to the north and south, and extending further to the southeast. An adjusted surface watershed area and a composited GCA were combined to produce the final GCA.

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Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the Illinois EPA. The Illinois EPA is required to review a written request to list DNPs, and upon confirmation of the technical adequacy, publish the proposed listings of the DNP(s) in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the comment period, the Illinois EPA is required to publish a final listing in the Environmental Register.

The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

EXHIBIT 1

Armin Krueger Speleological Area
Class III Designation Proposal

Exhibit 1: Map of proposed Armin Krueger Speleological Nature Preserve Class III Special Resource Groundwater area projected on a USGS Topographic map. Map is based on the delineation of the groundwater system by Aley, Moss and Aley (2000)

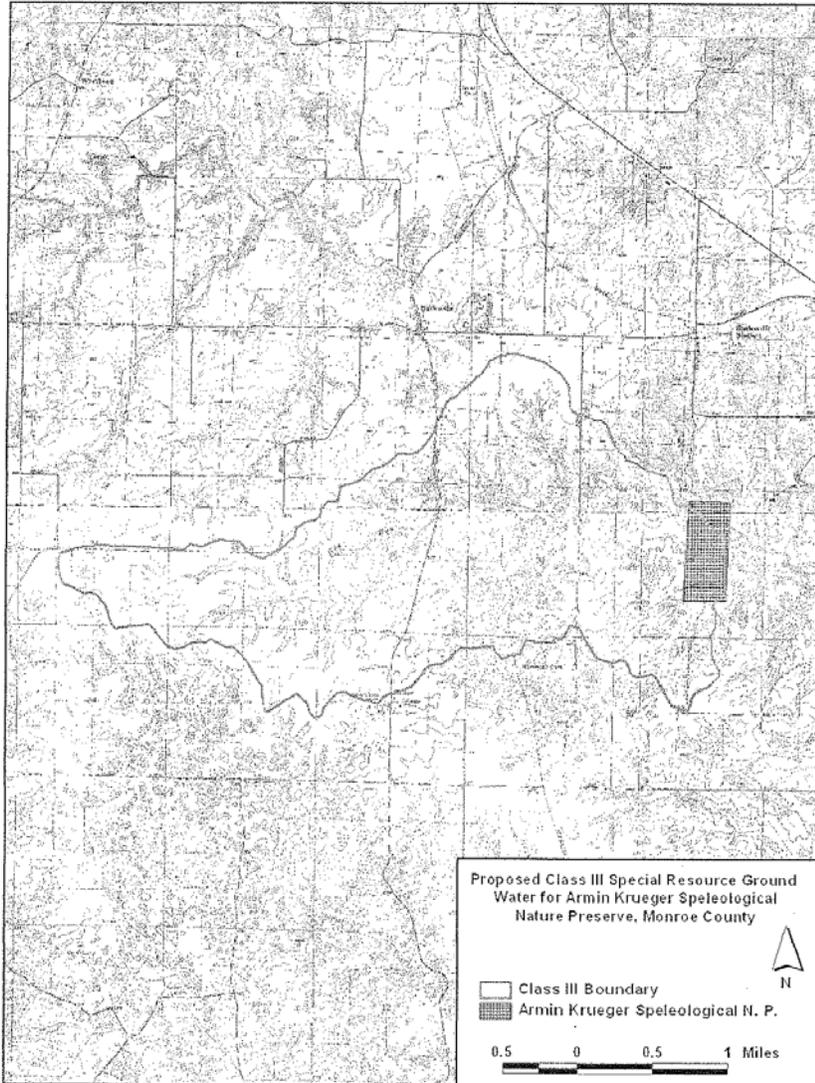


EXHIBIT 2

Bluff Spring Fen

Class III Designation Proposal

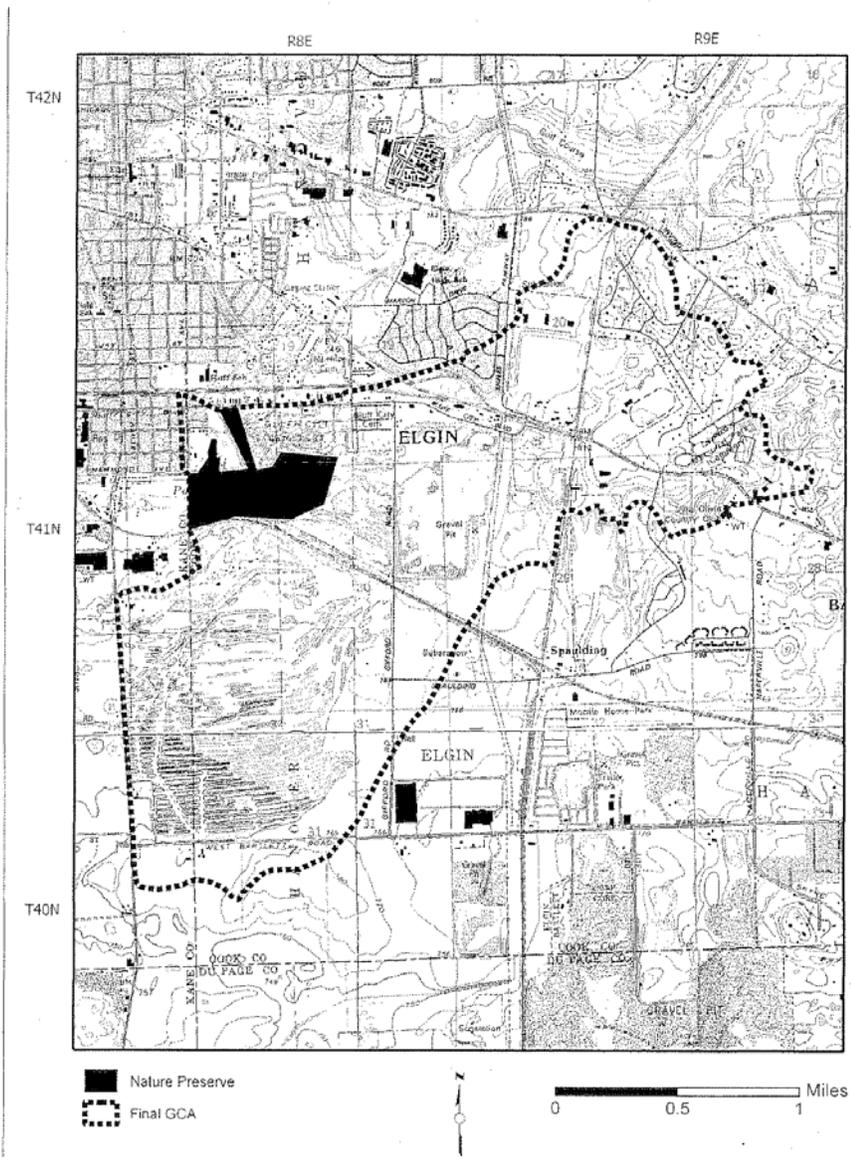


Figure 2. Bluff Spring Fen Nature Preserve and final GCA modified from Locke et al. (2005) superimposed on a USGS 1:24,000 digital raster graphic showing local topography.

EXHIBIT 3

Illinois Beach

Class III Designation Proposal

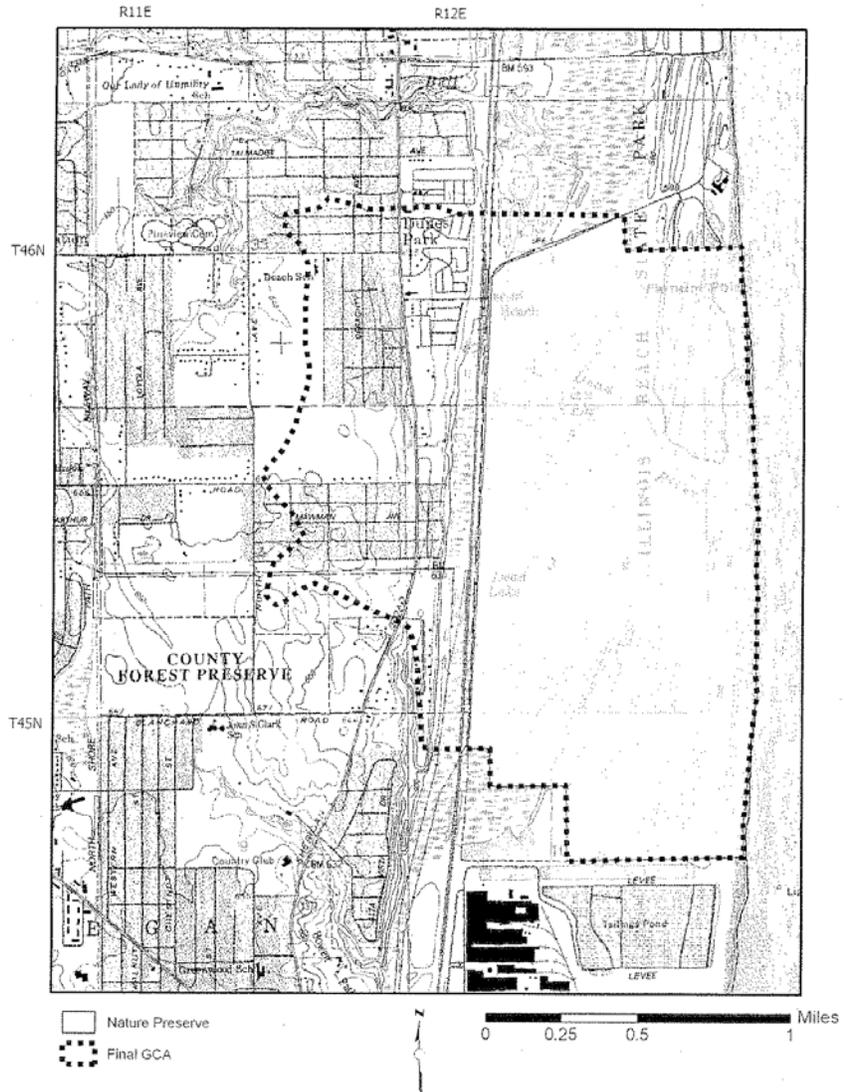


Figure 3. Final GCA for Illinois Beach Nature Preserve superimposed on a USGS 1:24,000 digital raster graphic.

EXHIBIT 4

Volo Bog

Class III Designation Proposal

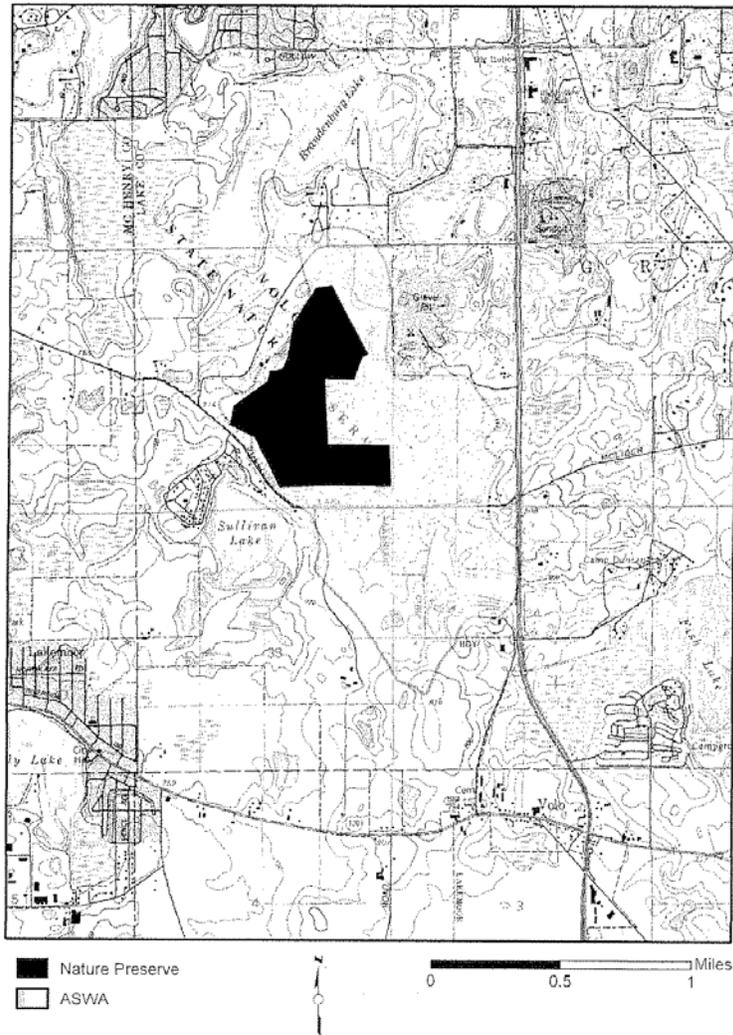


Figure 2. Location of Volo Bog Nature Preserve and its Adjusted Surface Watershed Area (ASWA) superimposed on a USGS 1:24,000 digital raster graphic showing local topography.

EXHIBIT 5

Braidwood Dunes and Savanna
Class III Designation Proposal

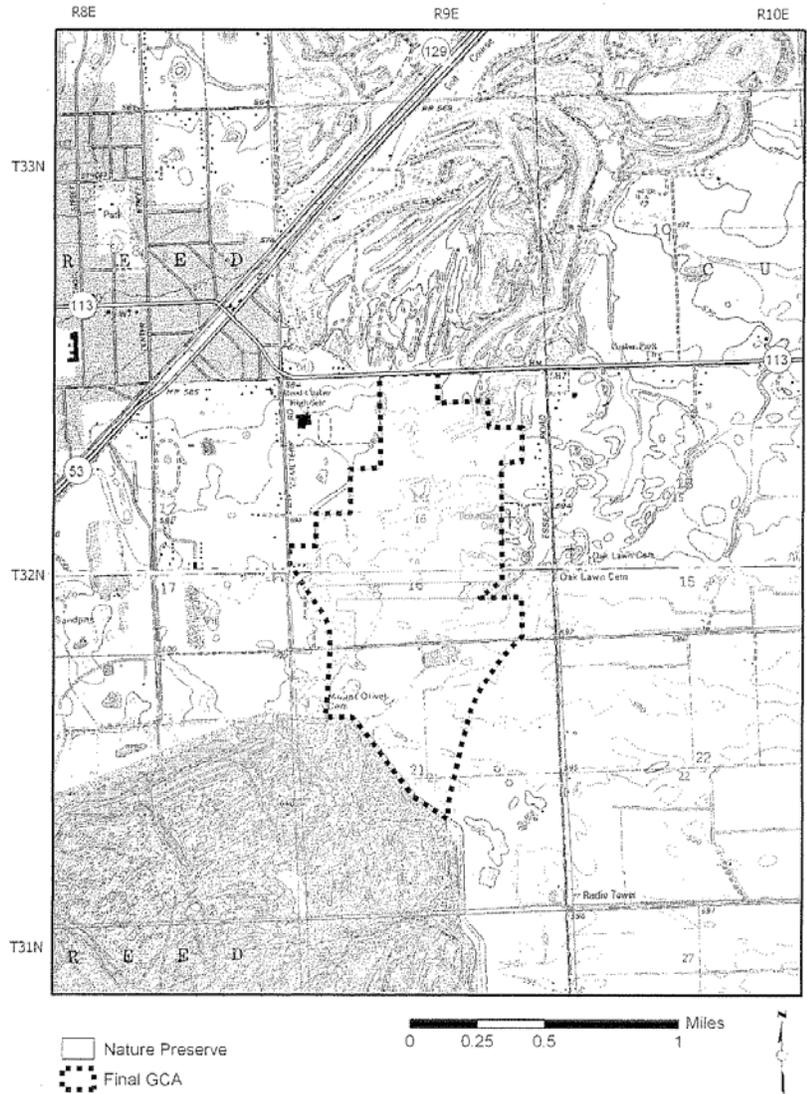


Figure 5. Final GCA for Braidwood Dunes and Savanna Nature Preserve, Will County, Illinois.

EXHIBIT 6

Lake In The Hills Fen

Class III Designation Proposal

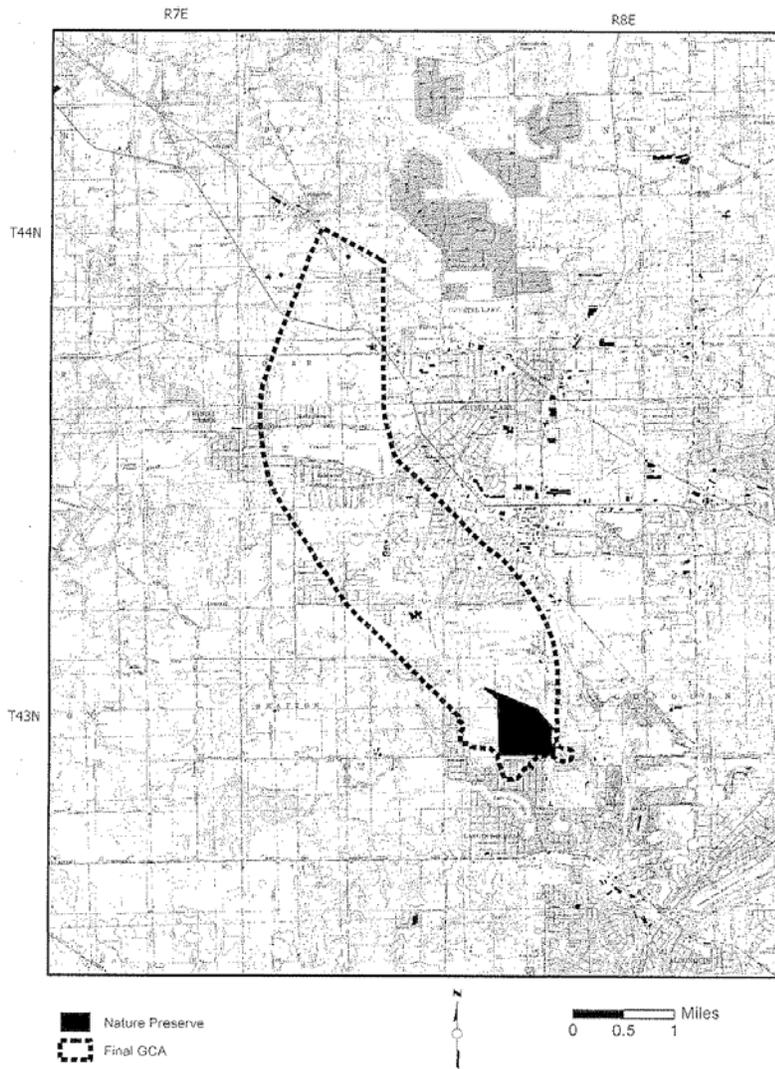


Figure 4. Lake in the Hills Fen Nature Preserve and final GCA modified from Locke et al. (2005) superimposed on a USGS 1:24,000 digital raster graphic showing local topography.

EXHIBIT 7

Lockport Prairie

Class III Designation Proposal

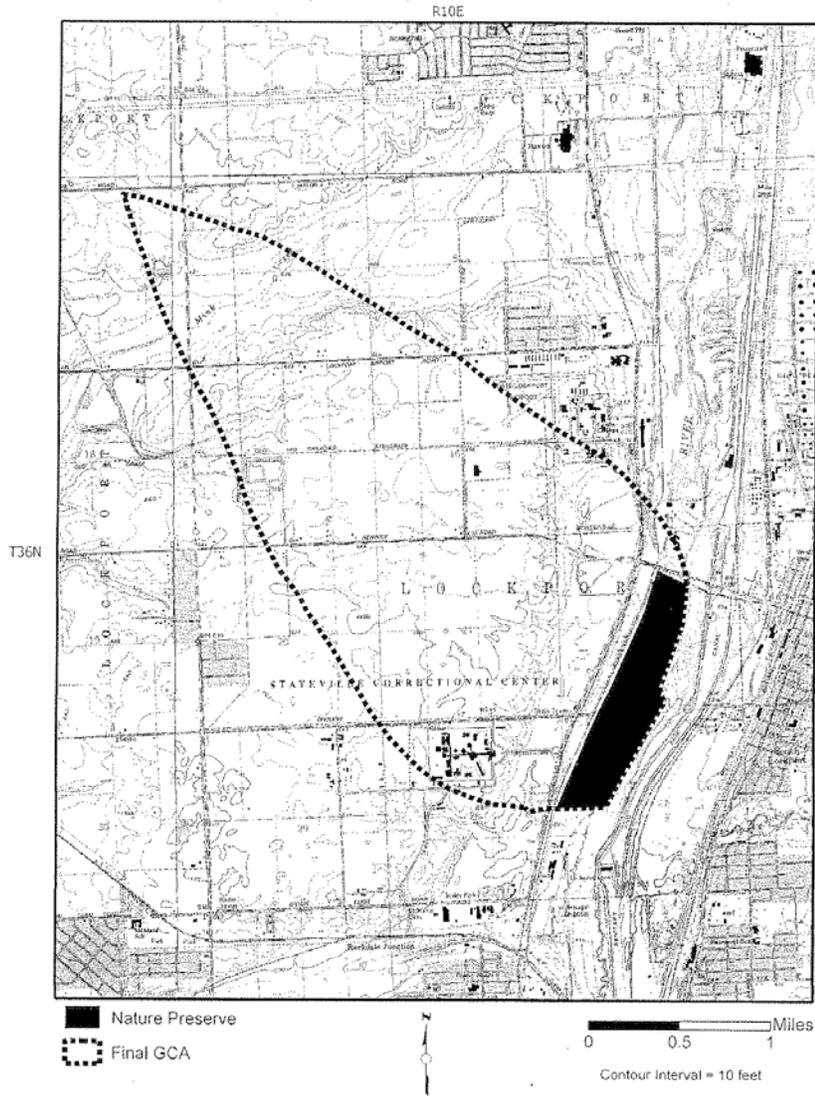


Figure 3. Lockport Prairie Nature Preserve and final GCA from Locke et al. (2005) superimposed on a USGS 1:24,000 digital raster graphic showing local topography.

EXHIBIT 8

Romeoville Prairie

Class III Designation Proposal

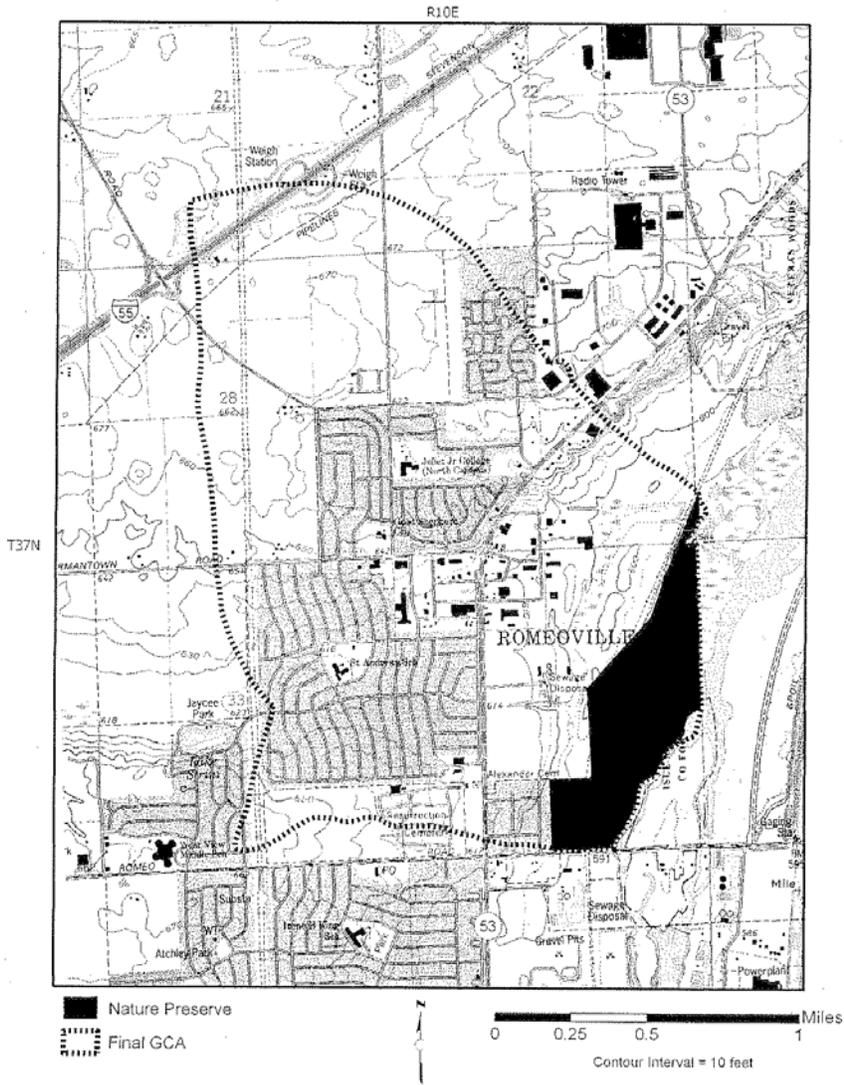


Figure 4. Romeoville Prairie Nature Preserve and final GCA from Locke et al. (2005) superimposed on a USGS 1:24,000 digital raster graphic.

EXHIBIT 9

Elizabeth Lake

Class III Designation Proposal

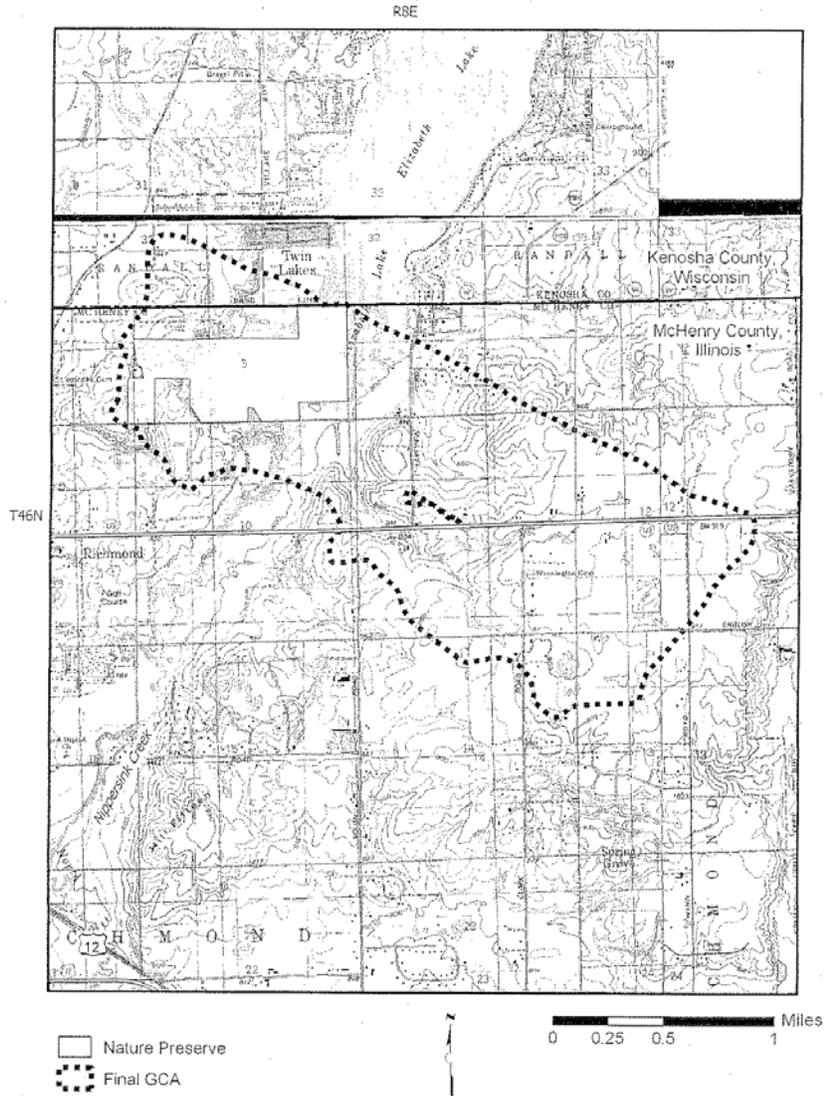
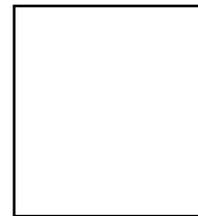
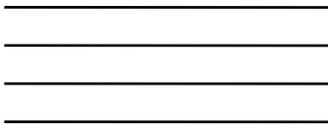


Figure 5. Final GCA for Elizabeth Lake Nature Preserve superimposed on a USGS 1:24,000 digital raster graphic.

The Illinois Pollution Control Board is an independent five-member board that adopts environmental control standards, rules on enforcement actions, and other environmental disputes for the State of Illinois.

The *Environmental Register* is published monthly by the Board, and contains updates on rulemakings, descriptions of final decisions, the Board's hearing calendar, and other environmental law information.

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