

Illinois Nature Preserves Commission



One Natural Resources Way
Springfield, IL 62702-1271
217/785-8686

May 13, 2013

Ms. Marie E. Tipsord, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601

RE: Responses to Pre-filed Questions In the Matter of Proposed Amendments to Clean Construction or Demolition Debris Fill Operations (CCDD) - Proposed Amendments to 35 Ill. Adm. Code 1100 - R12-9(B)

Dear Hearing Officer and Members of the Illinois Pollution Control Board:

The Illinois Nature Preserves Commission (INPC) provides the following responses to the Board's questions 14 a-c:

14. The INPC urges "the Board to consider a groundwater monitoring requirement. Specifically, CCDD sites within Class III groundwater contribution areas or areas that potentially qualify as such should be required to monitor due to the distinct potential of, for example, acidic precipitation mobilizing contaminants and causing impact to these dedicated Nature Preserves which the INPC is statutorily charged with protecting." PC 49 at 1.

a. Please clarify whether INPC has information on the delineation of Class III groundwater contribution areas along with areas that potentially qualify as such. If so, please provide any maps or other information on Class III contribution areas.

INPC has attached copies of the Illinois Environmental Registers where the final listings and maps of the designated Class III areas contributing to Dedicated Nature Preserves have been published. We also have an electronic copy of the Class III areas in geographic information system (GIS). Further these maps are available via Internet on the Illinois Environmental Protection Agency's (IEPA) Arc Internet Map Server (IMS) at: <http://www.epa.state.il.us/water/groundwater/source-water-assessment/>. In addition, please see the attached maps.

Ms. Marie Tipsord
Page Two
May 13, 2013

b. Please comment on whether INPC has information on CCDD and uncontaminated soil fill operations located within the boundary of Class III areas groundwater contribution areas, and those within a one-mile radius of a Nature Preserve. If so, please provide such information into the record.

The INPC does have information on CCDD and uncontaminated soil fill operations located within the boundary of Class III areas. This information is also available via Internet on the IEPA's Arc IMS at: <http://www.epa.state.il.us/water/groundwater/source-water-assessment/>. Per the Board's request we have also worked with the IEPA to do a query of fill sites within a one-mile radius of dedicated Nature Preserves that are not currently designated as Class III groundwater areas. In addition, please see the attached maps.

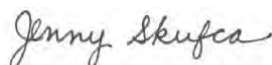
c. Please comment on whether a location prohibition similar to the potable water well setback zone prohibition at Sections 1100.201 and 1100.500 would afford adequate protection from any potential threat of groundwater contamination to Nature Preserves and Class III groundwater areas from CCDD and uncontaminated soil fill operations.

A setback outside of the contributing area of a Class III area would provide protection from a fill operation.

The INPC requests that the Board continue to consider the hydrologic vulnerability of and hydraulic connectivity to Illinois Nature Preserves when deliberating on whether to compel that CCDD sites be monitored for potential groundwater contamination.

Thank you for the opportunity to comment.

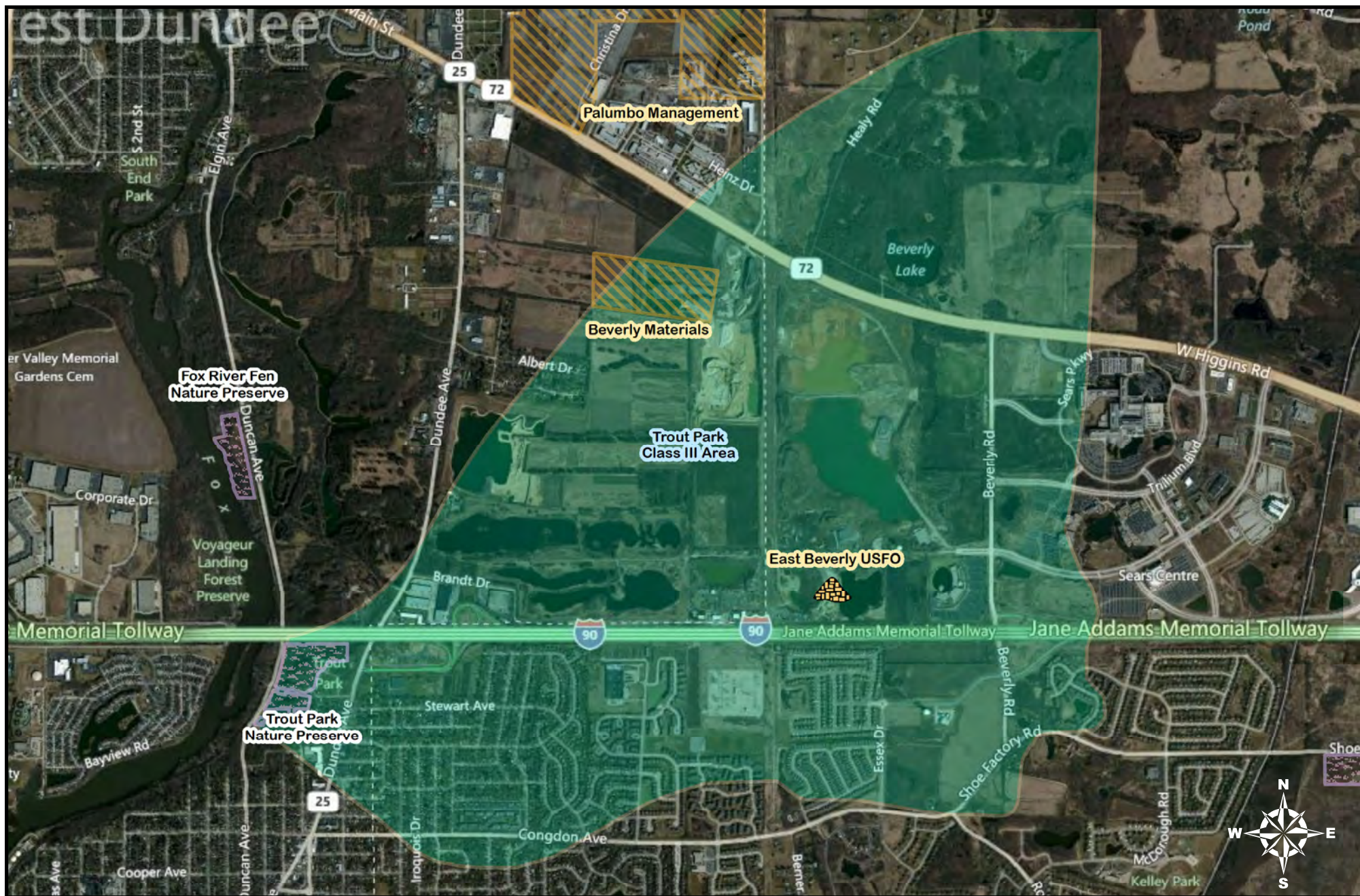
Sincerely,



Jenny Skufca
Natural Areas Defense Specialist

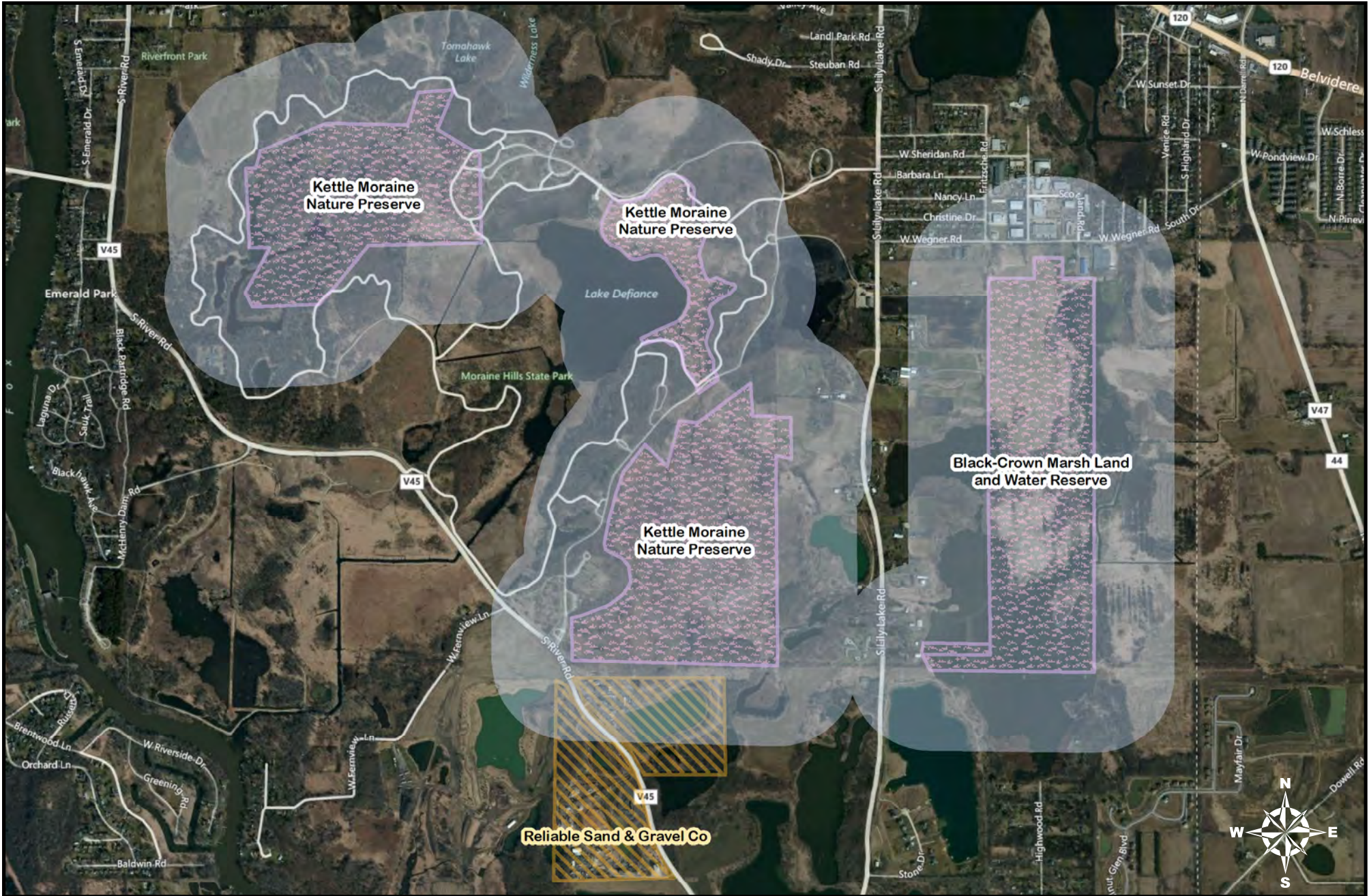
Enc.

cc: Randy Locke, Jim Miner – Illinois State Geological Survey
Richard P. Cobb – IEPA
Mitchell Cohen – Illinois Department of Natural Resources
Randy Heidorn – INPC

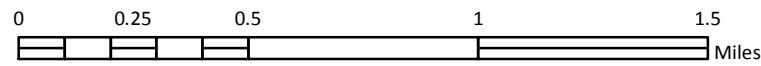




SOURCE INFORMATION - May, 2013
 Base map provided by BING distributed through ESRI. Nature Preserves obtained from IDNR. CCDD obtained from Illinois EPA, BOL. Class III obtained from Illinois EPA, Groundwater Section

	Clean Construction or Demolition Debris	Class III Groundwater
	Untamminated Soil Fill Operations	 Active
		 Nature Preserve

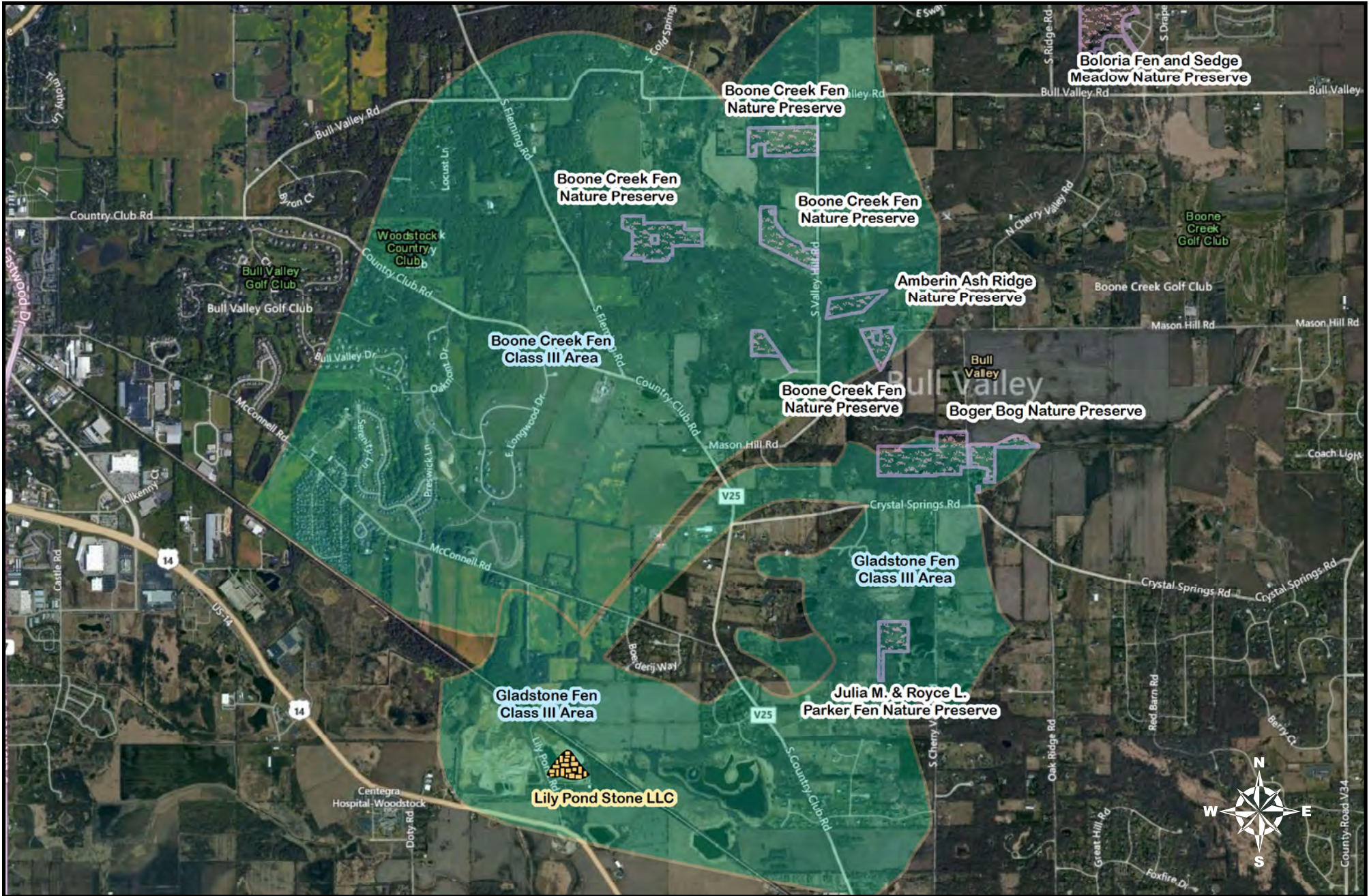


SOURCE INFORMATION - May, 2013
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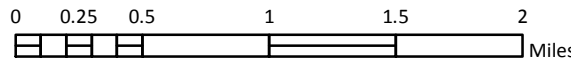


-  Uncontaminated Soil Fill Operations
-  Clean Construction or Demolition Debris
-  Nature Preserve
-  1,000-Foot Buffer

CLASS III GROUNDWATER CONTRIBUTING TO GLADSTONE FEN WITH LILY POND STONE USFO



SOURCE INFORMATION - May, 2013
 Base map provided by BING distributed through ESRI. Nature Preserves obtained from IDNR.
 CCDD obtained from Illinois EPA, BOL. Class III obtained from Illinois EPA, Groundwater Section



	Untaminated Soil Fill Operations		Class III Groundwater Active
	Clean Construction or Demolition Debris		Nature Preserve



Environmental Register

March 2013 - Number 705

The Environmental Register is a Publication of the Illinois Pollution Control Board

Thomas Holbrook, Chairman

Board Members:

Jennifer A. Burke, Deanna Glosser, Jerome D. O'Leary, and Carrie Zalewski

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James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
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1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
(217) 524-8500

Web Site: <http://www.ipcb.state.il.us>

Letter from the Chairman

While continuing work on its rulemaking and adjudicatory dockets during the month of March, the Board was saddened to learn of the death of two former Board Members, first Nicholas Melas and then Richard Kissel. Both of them made immeasurable contributions to the Board's work and to environmental protection in Illinois.

Nicholas Melas was first appointed to the Board in May 1998 and was reappointed in 2000, 2003, and 2005. His tenure continued through November 2008. His distinguished public service career over six decades included 30 years as Commissioner of the Metropolitan Water Reclamation District of Greater Chicago, the last 18 of those years as President of its Board. He had a deep involvement with a wide range of professional, environmental, religious, and community service organizations. He earned both an M.B.A. from the Graduate School of Business as well as a B.S. in Chemistry from the University of Chicago.



During his tenure, Member Melas' commitment and expertise contributed greatly to the Board's work. The time, historical perspective, and knowledge Mr. Melas so freely shared earned the appreciation, respect, and friendship of many persons, particularly his fellow Board members and the Board's staff. Our deepest sympathies go to his family and his wide circle of friends.

Richard Kissel assisted in drafting the original Illinois Environmental Protection Act. Upon its adoption, Governor Ogilvie appointed him as one of the original members of the Illinois Pollution Control Board. In 1973, Mr. Kissel returned to private practice and formed an environmental law practice with a number of colleagues. In April of 1988, he joined Gardner Carton & Douglas. He served as Chair of the firm's Environmental Law Department from its inception until 1996 and also served as Chair and member of the firm's Management Committee. Mr. Kissel received his J.D. from the Northwestern University School of Law in 1961. He had served as an adjunct professor at both the Chicago-Kent College of Law and the University of Illinois School of Public Health.

Richard Kissel will be remembered as a leader in his profession and as a tireless advocate. His roles in drafting the Environmental Protection Act and forming the Pollution Control Board will long influence public policy and environmental protection in the State of Illinois. The Board extends its deepest sympathies to his family and friends.

Sincerely,

A handwritten signature in black ink that reads "Thomas Holbrook". The signature is written in a cursive style with a large, sweeping initial "T".

Thomas Holbrook
Chairman

Inside This Issue:

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CLASS III GROUNDWATER PROPOSED LISTING NOTICE	P. 7

Rulemaking Update

Board Adopts Second-Notice Proposal Adding Indoor Inhalation Pathway to TACO

The Board, on March 7, 2013, proposed amendments to the Tiered Approach to Corrective Action Objectives (TACO) rules (35 Ill. Adm. Code 742) for second-notice review by the Joint Committee on Administrative Rules (JCAR) (5 ILCS 100/5-40(c) (2010)). The amendments include the addition of a new exposure route under TACO: the indoor inhalation exposure route. To protect building occupants, this exposure route addresses the potential for vapors to migrate into buildings from subsurface volatile chemical contamination, a process commonly known as “vapor intrusion” or “VI.”

The rulemaking provides, among other things, Tier 1 soil gas and groundwater remediation objectives for the indoor inhalation exposure route. Also as proposed at first notice, the second-notice amendments reflect the addition of 13 chemicals to the TACO tables, update physical and chemical parameters, and revise toxicity values. In addition, to ease the transition of adding a new exposure route to TACO, the amendments will have a 60-day delayed effective date.

Two significant changes to the first-notice rule language were proposed at second notice. First, an institutional control must be placed on the property whenever the indoor inhalation remediation objectives (including Tiers 1 and 2) applied at the site rely upon the assumed presence of a building with a full concrete slab-on-grade or a full concrete basement floor and walls. Second, if a “building control technology” becomes inoperable at a school for five consecutive calendar days during the school year when school is in session, it is the “school administrator” who must notify not only the Illinois Environmental Protection Agency, but also the school board and every parent or legal guardian for all enrolled students.

The Board plans to proceed expeditiously to adopt these TACO amendments as final rules after JCAR’s second-notice review. The final amendments will provide the first set of vapor intrusion rules for remediation sites in Illinois.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board’s Web site www.ipcb.state.il.us, and may be downloaded from the Web without charge. Hard copies may be obtained from the Clerk’s Office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information, contact Richard McGill at (312)-814-6983 or email at Richard.McGill@illinois.gov.

Board Will Hold Additional Hearings to Further Consider Groundwater Monitoring for Clean Construction or Demolition Debris Fill Operations

On March 21, 2013, the Board, adopted an order directing that additional hearings be held concerning groundwater monitoring for Clean Construction or Demolition Debris (CCDD) and Uncontaminated Soil Fill Operations. On August 23, 2012, the Board adopted rule amendments allowing CCDD and uncontaminated soil to be used as fill at quarries, mines, and other excavations. Additionally, the August 23, 2012 order opened a Subdocket B, at the recommendation of the Joint Committee on Administrative Rules (JCAR), to examine the issue of groundwater monitoring at CCDD or uncontaminated soil fill operations. *See [Proposed Amendments to Clean Construction or Demolition Debris Fill Operations \(CCDD\): Proposed Amendments to 35 Ill. Adm. Code 1100, R12-9\(B\)](#)*.

On September 21, 2012, a hearing officer order sought comment from any interested person on whether the Board should require groundwater monitoring at CCDD and uncontaminated soil fill facilities. The hearing officer allowed for comments to be filed until December 1, 2012.

The Board reviewed those comments and, in its March 21, 2013 order, found that additional hearings are necessary on the issue of groundwater monitoring. The Board determined that although the comments provided some suggestions that the Board will explore at hearing, many questions regarding groundwater monitoring remain. The Board therefore directed the hearing officer to schedule hearings and issue questions to be addressed by participants at hearing.

As a basis for considering how a groundwater monitoring program might be implemented, the Board's March 21, 2013 order provided the rule language for groundwater monitoring that had been proposed by the Illinois Environmental Protection Agency. The proposed language can be found through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

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 from the Clerk's Office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Marie Tipsord at 312-814-4925 or email at marie.tipsord@illinois.gov.

Board Actions

March 7, 2013
via video conference
Springfield and Chicago, Illinois

Rulemakings

R11-9	<u>In the Matter of: Tiered Approach to Corrective Action Objectives (TACO) (Indoor Inhalation): Amendments to 35 Ill. Adm. Code 742</u> – The Board adopted a second notice opinion and order in this rulemaking to amend the Board's land pollution control regulations.	4-0 Land
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Administrative Citations

AC 13-29	<u>IEPA v. Teddy G. Brown, Trustee, and Lawana R. Brown, Trustee and T&T Recycling, Inc.</u> – The Board found that these Williamson County respondents violated Sections 21(p)(1), 21(p)(3), 21(p)(4), and 21(p)(6) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(4), (p)(6) (2010)), and ordered respondents to pay a civil penalty of \$6,000.	4-0
AC 13-30	<u>IEPA v. Michael & Janet Mileham d/b/a Mike's Tire & Auto Service</u> – The Board found that these White County respondents violated Sections 55(k)(1) of the Environmental Protection Act (415 ILCS 5/55(k)(1) (2010)), and ordered respondents to pay a civil penalty of \$1,500.	4-0
AC 13-32	<u>IEPA v. Nico Development Groups, Inc.</u> – The Board found that this Rock Island County respondent violated Sections 55(k)(1) of the Environmental Protection Act (415 ILCS 5/55(k)(1) (2010)), and ordered respondent to pay a civil penalty of \$1,500.	4-0

- AC 13-33** IEPA v. Industrial Demolition, Inc. – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Macoupin County facility. 4-0
- AC 13-34** IEPA v. Colonial Brick Co. Inc. and Rodney N. Brown d/b/a Brown Trucking & Ready Mix – The Board accepted for hearing respondents’ petition for review of this administrative citation involving a Knox County facility. 4-0
- AC 13-35** County of Jackson v. Cloyd and Craig Karnes – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket. 4-0
- AC 13-37** County of Vermilion, Illinois v. Charles Long – The Board on its own motion dismissed the administrative citation and closed the docket, for failure to timely serve the administrative citation on respondent. 4-0

Adjudicatory Cases

- PCB 04-16** People of the State of Illinois v. Packaging Personified, Inc. – The Board granted complainant’s motion for extension of the record-closing deadline. 4-0
Glosser and
Zalewski
concurred
A-E
- PCB 10-9** People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, and Trinity Rail Group, Inc. – In this land enforcement action concerning a Macon 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) (2010)) as Trinity Rail Group, Inc., (Trinity) only, accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$30,000, and to cease and desist from further violations. Trinity also agreed to pay the People’s attorney’s fees in the amount of \$750.00. 4-0
L-E
- PCB 13-1** People of the State of Illinois v. Troy Carter – The Board granted complainant’s motion for summary judgment, finding that respondent violated the specified provisions of the Environmental Protection Act and the Board regulations as alleged in the complaint. The Board ordered respondent to pay a total civil penalty of \$37,008.00, and to cease and desist from further violations. 4-0
L-E
- PCB 13-10** Martin Maggio v. County of Winnebago, Winnebago County Board, and Winnebago Landfill Company, LLC – The Board affirmed the Winnebago County Board’s siting approval for the Winnebago Landfill Company’s pollution control facility expansion. 4-0
PCFSR,
3d P
- PCB 13-41** People of the State of Illinois v. AmerenEnergy Resources Generating Company, Inc. – The Board granted complainant’s motion for substitution of parties and dismissed respondent’s motion for dismissal. (The above caption reflects this action.) 4-0
L-E

March 21, 2013
Chicago, Illinois

Rulemakings

R12-9 (B) In the Matter of: Proposed Amendments to Clean Construction or Demolition Debris (CCDD) Fill Operations: Proposed Amendments to 35 Ill. Adm. Code 1100 – The Board adopted an order directing the hearing officer to schedule hearings and provide participants with questions to be addressed concerning groundwater monitoring issues at hearing. 3-0
 Burke and
 Zalewski
 abstained
 Land

Administrative Citations

AC 12-4 IEPA v. Garrison Properties, Inc. & River City Roofing Company, Inc. – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Peoria County facility, the Board found that respondents had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2010)) and ordered respondents to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondents’ petition for review. To effectuate the parties’ intent that respondents pay a total civil penalty of \$1,500, the Board on its own motion, dismissed the alleged violations of Sections 21(p)(3) and 21(p)(7) of the Act (415 ILCS 5/21(p)(3) and 21(p)(7) (2010)). 5-0

AC 12-38 IEPA v. Funk Builders, Inc. – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Woodford County facility, the Board found that respondent had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2010)) and ordered respondent to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondent’s petition for review. To effectuate the parties’ intent that respondent pay a total civil penalty of \$1,500, the Board on its own motion, dismissed the alleged violations of Sections 21(p)(3) and 21(p)(7) of the Act (415 ILCS 5/21(p)(3) and 21(p)(7) (2010)).

AC 12-51 IEPA v. Northern Illinois Service Company – The Board denied complainant’s motion for leave to amend an administrative citation as unnecessary. 5-0

AC 13-23 IEPA v. IL Valley Urban Lumberjacks, LLC – The Board denied respondent’s motion to reconsider the Board’s January 24, 2013 order. 5-0

AC 13-36 IEPA v. Paul Williams & H S Auto Salvage – The Board found that these Alexander County respondents violated Section 21(p)(1), 21(p)(3), 21(p)(7) and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) and 55(k)(1) (2010)), and ordered respondents to pay a civil penalty of \$6,000. 5-0

Adjudicatory Cases

PCB 10-20 People of the State of Illinois v. Montalbano Builders, Inc., an Illinois corporation, First American Properties, L.L.C., an Illinois limited liability company, and MBC XIV, LLC, a revoked Delaware limited liability company – The Board granted complainant’s motion to voluntarily dismiss First American Properties, LLC (First American) from the amended 5-0
 W-E

complaint. First American's motion to dismiss Counts I and II of the amended complaint is moot.

PCB 12-101	<u>ConocoPhillips Company v. IEPA</u> – The Board affirmed the Illinois Environmental Protection Agency's imposition of Special Condition 27 in Phillips 66 Company's National Pollutant Discharge Elimination System permit issued on December 22, 2011. The Board remanded the permit for recalculation of the effluent limit for mercury.	3-0 Burke and Holbrook abstained P-A, Water
PCB 12-132	<u>People of the State of Illinois v. Kehrer Brothers Construction, Inc. an Illinois corporation</u> – In this land 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$6,000.00, and to cease and desist from further violations.	4-0 Holbrook abstained L-E
PCB 13-38	<u>People of the State of Illinois v. Kerry Anderson, d/b/a Bill's Auto Repair</u> – In this land enforcement action concerning a Henry 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$6,000.00, and to cease and desist from further violations.	5-0 L-E
PCB 13-47	<u>People of the State of Illinois v. City of Carlinville</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a facility located in Macoupin County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E

New Cases

March 7, 2013 Board Meeting

AC 13-38 IEPA v. Jeff Wuebbels – The Board accepted an administrative citation against this Clinton County respondent.

March 21, 2013 Board Meeting

PCB 13-47 People of the State of Illinois v. City of Carlinville – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a facility located in Macoupin County facility, the Board ordered publication of the required newspaper notice.

AC 13-39 County of Jackson v. Elmer Rowe and Greg Rowe – The Board accepted an administrative citation against these Jackson County respondents.

AC 13-40 IEPA v. Lloyd Schoenheit and Mark E. Johnson d/b/a MJ Tire Service – The Board accepted an administrative citation against these Edwards County respondents.

R13-18 In the Matter of: Vapor Recovery Rules: Amendments to 35 Ill. Adm. Code Parts 201, 218, and 219 – No action taken.

Calendar

4/4/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago
4/18/2012 11:00 AM	Illinois Pollution Control Board Meeting		Videconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
5/2/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago
5/7/2013 10:30 AM	PCB 12-124	<u>Broadus Oil Company v. IEPA</u>	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East (North Entrance) Springfield
5/7/2013 10:30 AM	PCB 12-134	<u>Brimfield Auto & Truck v. IEPA</u>	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East (North Entrance) Springfield
5/16/2012 11:00 AM	Illinois Pollution Control Board Meeting		Videconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
5/21/2013 10:30 AM	AC 12-53	<u>IEPA v. Thomas E. Porter, Beverly J. Bible, and Todd & Tabitha Booten d/b/a C & T Recycling</u>	City Hall Council Chambers 1102 Tower Square Plaza Marion
6/6/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago
6/20/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago

Class III Groundwater Proposed Listing Notice

In accordance with 35 Ill. Adm. Code 620.230(b)(2), the Illinois Environmental Protection Agency (“Illinois EPA”) is publishing a proposed listing of dedicated nature preserves (“DNPs”), to be classified as Class III: Special Resource Groundwater, in the Environmental Register for a 45-day public comment period. The proposed list of DNPs includes: Sand Ridge, Searls Park Prairie, and Yonder Prairie nature preserves. This is the sixth Class III petition received by the Illinois EPA for the proposed listing of 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, Bureau of Water, 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 publishing the following proposed listings:

Sand Ridge: Exhibit 1

Searls Park Prairie: Exhibit 2

Yonder Prairie: Exhibit 3

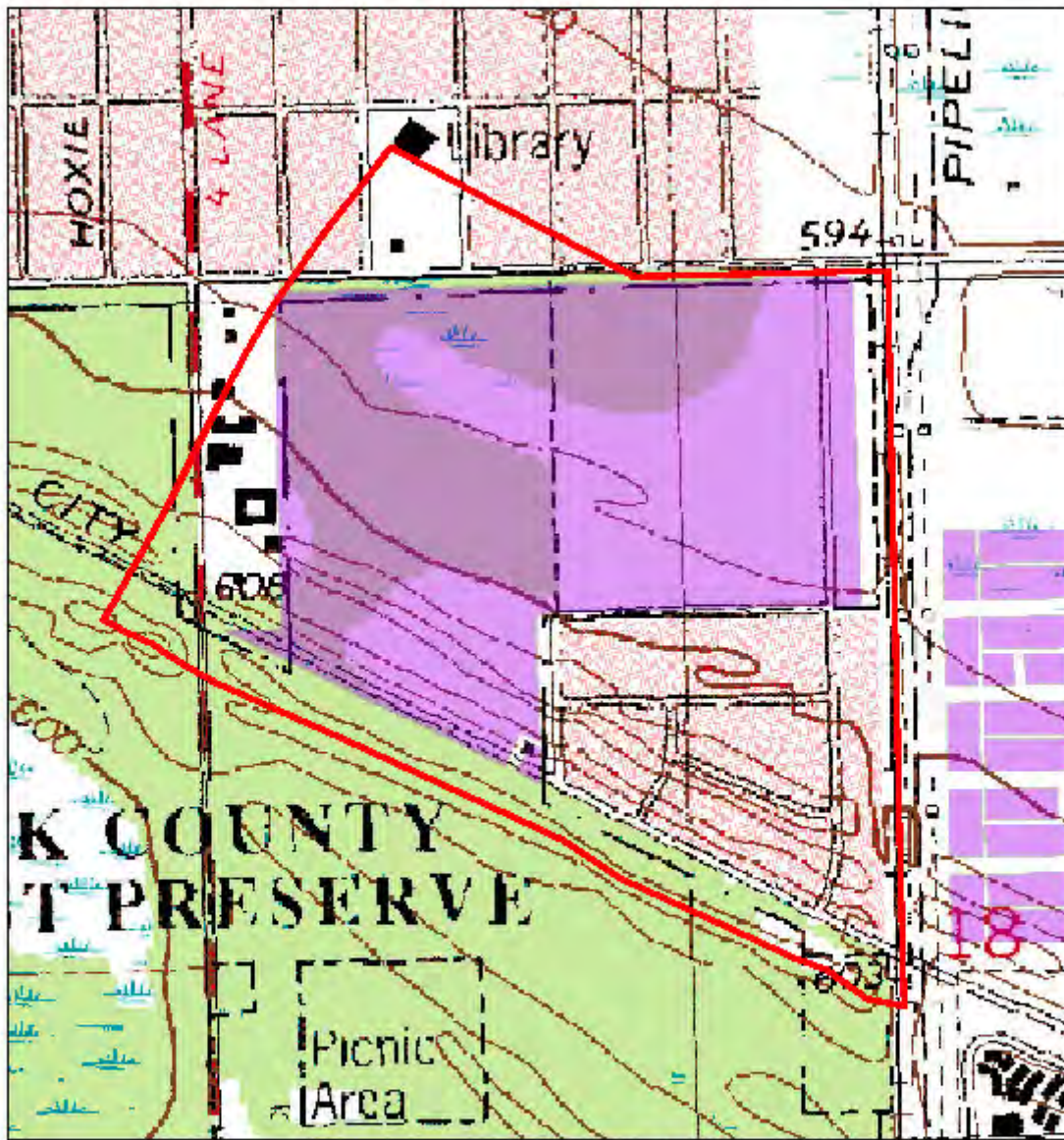
for a 45-day public comment period in the Environmental Register. Questions regarding Class III Groundwater and copies of the proposed listing exhibits can be obtained by mail, telephone or e-mail at the following:

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



EXHIBIT 1

Sand Ridge Nature Preserve Class III Designation Proposal

Sand Ridge Class III Groundwater Area



Legend

-  Sand Ridge_Final_GCA
-  Dedicated Nature Preserves

Sand Ridge Nature Preserve Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Sand Ridge, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Sand Ridge Nature Preserve is located adjacent to Cook County Forest Preserve in unincorporated South Holland just west of Calumet City. Plant communities at this site include sand prairies and scattered black oak savannas, with wetlands at the base of the sand ridges. The nature preserve is home to two endangered and one threatened plant species. Sand Ridge is a 70 acre tract of land owned by the Cook County Forest Preserve District, located in Section 18, Township 36 North, Range 15 East, Cook County. The groundwater contribution area (GCA), which is proposed for Class III designation, also extends into Section 7, Township 36 North, Range 15 East and Section 13, Township 36 North, Range 14 East, Cook County. The total GCA including the nature preserve and GCA outside the nature preserve is 0.22 square miles (139.2 acres) extending northwest, west and south of the nature preserve.

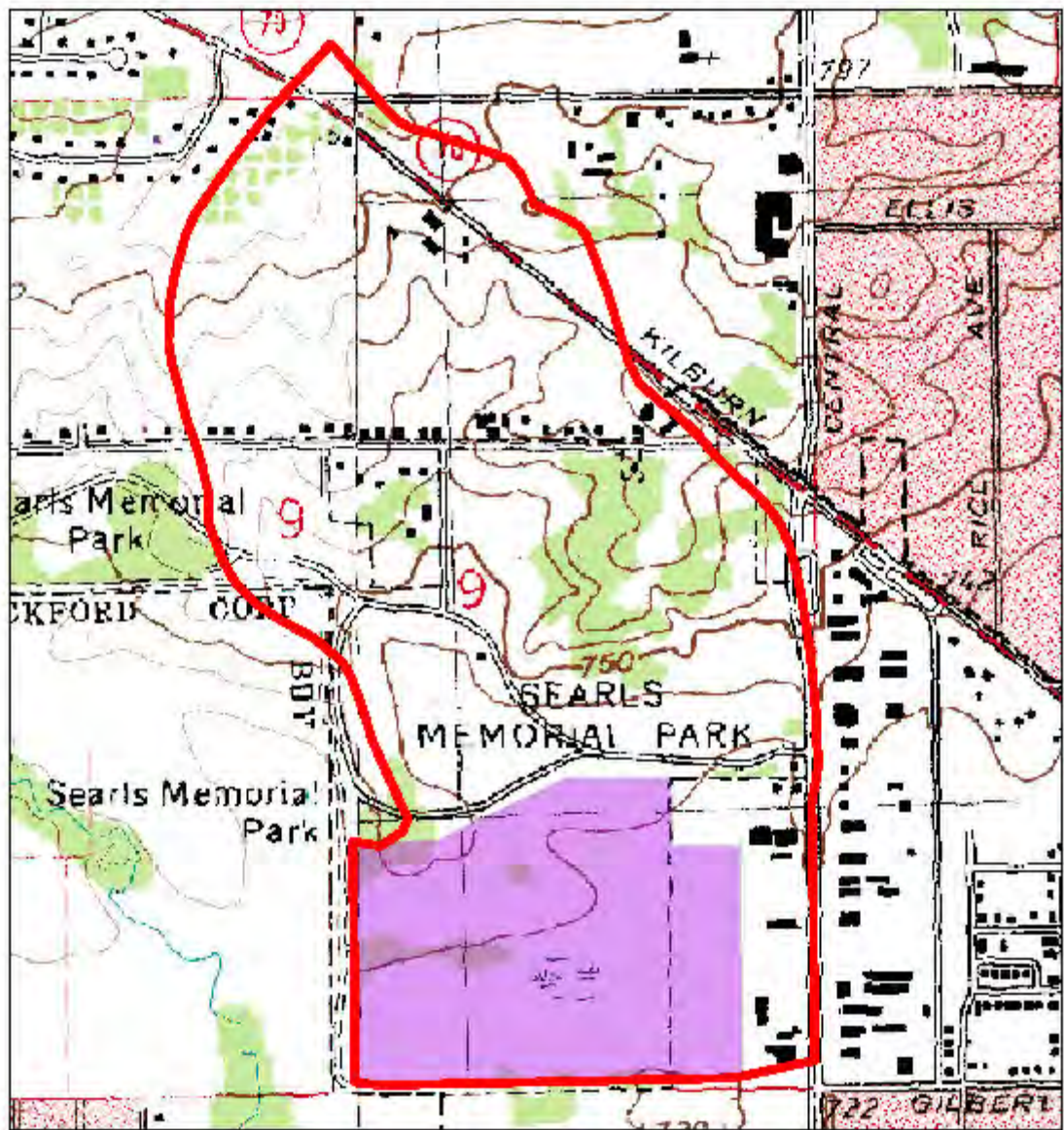
Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water 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 2

Searls Park Prairie Nature Preserve Class III Designation Proposal

Searls Park Class III Groundwater Area



Legend

-  SearlsPark_Final_GCA
-  Dedicated Nature Preserves

**Searls Park Prairie Nature Preserve Class III Special Resource Groundwater Listing
Notice**

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Searls Park Prairie, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Searls Park Prairie Nature Preserve is located northwest of Rockford in Winnebago County. Plant communities at this site include mesic prairie, wet-mesic prairie and wet prairie, which depend on the specialized hydrogeologic conditions for their continued survival. The prairie is home to an endangered plant species. Searls Park Prairie is a 66 acre tract of land within Searls Memorial Park, owned by the Rockford Park District, located in Section 9, Township 44 North, Range 1 East, Winnebago County. The groundwater contribution area (GCA), is in Sections 4, 9 and 10 Township 44 North, Range 1 East, Winnebago County. The total GCA, for which Class III is proposed, including the nature preserve and GCA outside the nature preserve, is 0.43 square miles (279.2 acres) extending predominantly north, with minor contribution from the east of the nature preserve.

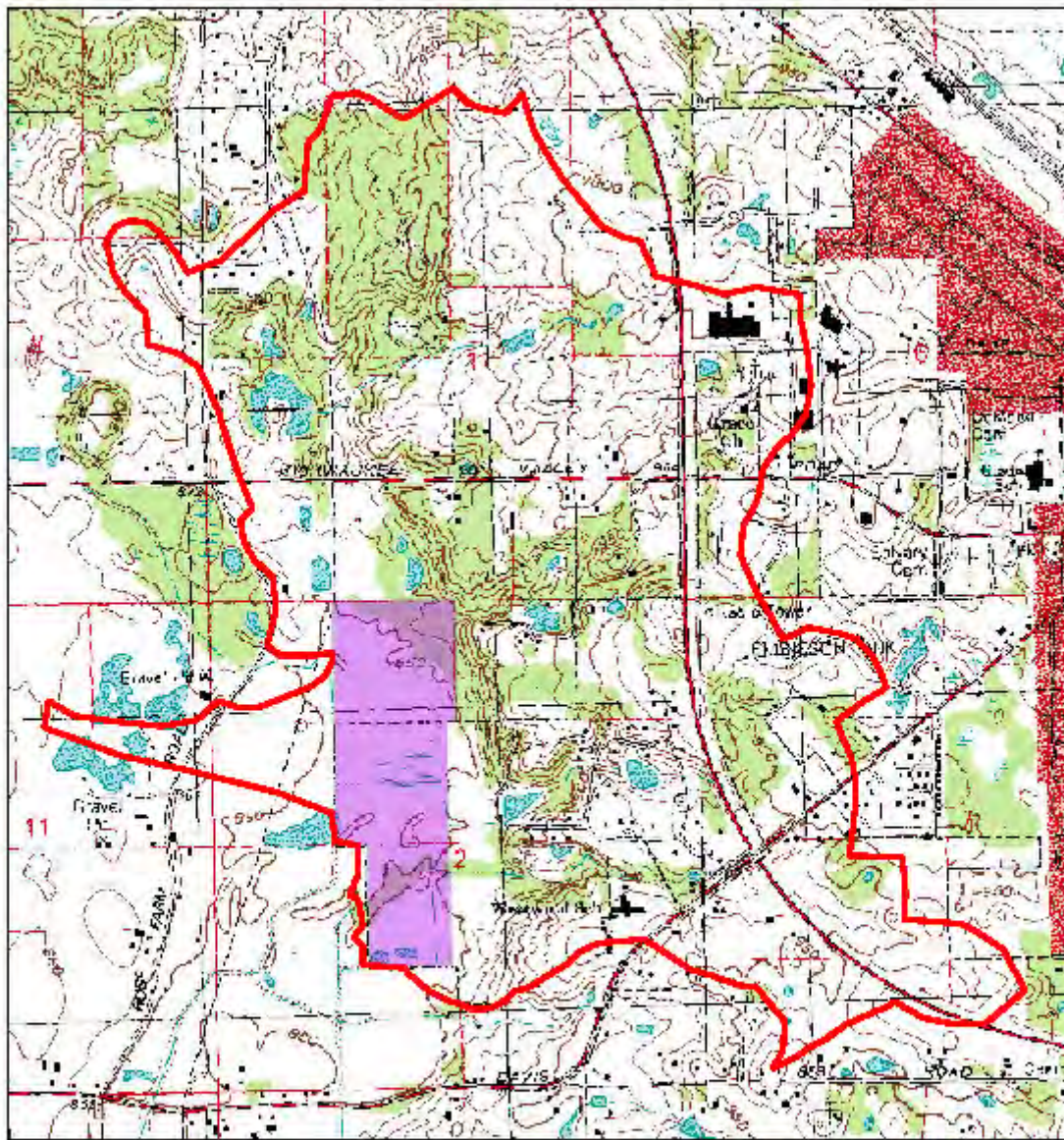
Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water 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 3



Yonder Prairie Nature Preserve Class III Designation Proposal

Yonder Prairie Class III Groundwater Area



0 500,000 2,000 3,000 4,000 Feet

Legend

-  Yonder Prairie_Final_GCA
-  Dedicated Nature Preserves

Yonder Prairie Nature Preserve Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Yonder Prairie, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Yonder Prairie Nature Preserve is located on the western edge of Woodstock, McHenry County, and is part of a larger wetland complex. Plant communities at this site include prairie, wet prairie, wetlands and oak savanna. The diverse communities indicate that groundwater currently retains important flow and geochemical characteristics, which are important to the continued survival of specialized wetland plants. Yonder Prairie is a 103.9 acre tract of land owned by the Land Conservancy of McHenry County, located in Sections 1 and 12, Township 44 North, Range 6 East, McHenry County. The groundwater contribution area (GCA) is in Sections 1, 2, 11 and 12, Township 44 North, Range 6 East; Sections 6 and 7, Township 44 North, Range 7 East and Section 36, Township 45 North, Range 6 East, McHenry County. The total GCA, for which Class III is proposed, including the nature preserve and GCA outside the nature preserve, is 1.97 square miles (1,261 acres) extending predominantly north and east of the nature preserve.

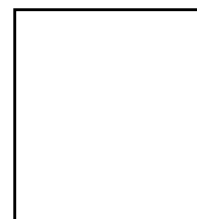
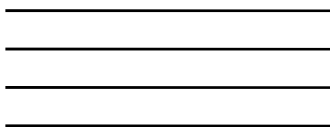
Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water 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.

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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Illinois Pollution Control Board
Environmental Register Coordinator
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Environmental Register

July 2012 - Number 697

The Environmental Register is a Publication of the Illinois Pollution Control Board

Thomas Holbrook, Chairman

Board Members:

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Letter from the Chairman

During June, the Board acted in several rulemaking dockets, and I've summarized that activity below. As always, information about these rulemakings is available through the Clerk's Office Online (COOL) at our Web site at www.ipcb.state.il.us.

On June 7, 2012, the Board adopted a second-notice opinion and order in Proposed Amendments to Clean Construction or Demolition Debris (CCDD) Fill Operations: Proposed Amendments to 35 Ill. Adm. Code 1100 (R12-9). The proposal will amend the Board's rules for Clean Construction or Demolition Debris Fill Operations to allow for use of uncontaminated clean construction or demolition debris (CCDD) and uncontaminated soil to be used as fill at quarries, mines, and other excavations.

On June 7, 2012, the Board adopted a second-notice opinion and order in Proposed Amendments to Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809) (R12-13). The proposal implements Public Act 97-220, effective July 28, 2011, which includes provisions removing Illinois from the federal Uniform State Hazardous Materials Transportation Registration and Permit Program.

On June 7, 2012, the Board issued its final opinion and order in Procedural Rules for Review of Petitions for Temporary Landfill Ban Waivers Under Section 95 of the Electronic Products Recycling and Reuse Act: New 35 Ill. Adm. Code 106, Subpart J (R12-21). The adopted procedural rules apply to petitions filed with the Board for a temporary waiver of the covered electronic device landfill ban under Section 95 of the Electronic Products Recycling and Reuse Act.

On June 7, 2012, the Board issued its final opinion and order in Updates to the Definition of "Pollution Control Facility" at Section 101.202 of the Board's Procedural Rules to Reflect Recent Public Acts (R12-22). The adopted rules reflect revisions to that definition enacted in six Public Acts during 96th and 97th General Assemblies.

On June 21, 2012, the Board issued its final opinion and order in Setback Zone for Fayette Water Company Community Water Supply: Amendments to 35 Ill. Adm. Code 618 (R11-25). The Board adopted rules establishing a maximum setback zone for six wells owned by the Fayette Water Company in Fayette County. The Board also reorganized Part 618 to accommodate future establishment of any additional maximum setback zones.

On June 21, 2012, the Board adopted a first-notice opinion and order in Procedural Rules for Authorizations Under P. A. 97-220 for Certain Landscape Waste and Compost Applications and On-Farm Composting Facilities: New 35 Ill. Adm. Code 106, Subpart I (R12-11). The Board adopted a third proposal for first-notice publication to allow adequate notice of proposed changes responding to a public comment filed on March 26, 2012, by the Illinois Environmental Protection Agency (IEPA). The proposed rules apply to Board authorizations made under P.A. 97-220, effective July 28, 2011. P.A. 97-220 includes provisions amending Section 21(q) of the Environmental Protection Act to specify that the Board (rather than the IEPA as previously provided) may authorize certain exceptions to the provisions of that section.

Please visit our website (www.ipcb.state.il.us) for more information on the rulemakings described above, as well as information on our docket of contested cases.



Sincerely,

A handwritten signature in dark ink that reads "Thomas Holbrook". The signature is written in a cursive style with a large, sweeping initial "T".

Thomas Holbrook
Chairman

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Rulemaking Update

Board Adopts Amendments Deleting “Uniform Program” References in Waste Hauling Regulations, R12-13

On July 12, 2012, the Board adopted amendments to the Board’s solid waste and special waste hauling regulations. On October 28, 2011, the Illinois Environmental Protection Agency (IEPA) filed the proposal, which was docketed as In the Matter of: Proposed Amendments to Nonhazardous Special Waste Hauling and the Uniform Program: (35 Ill. Adm. Code 809), R12-13.

The amendments implement Public Act 97-220, which includes provisions amending Sections 21 and 22.2(1) and (1-5) of the Environmental Protection Act to remove Illinois from the Uniform State Hazardous Material Transportation Registration and Permit Program (Uniform Program).

The Board received no public comments on its first-notice proposal. The Joint Committee on Administrative Rules, on July 10, 2012, issued its certificate of no objection.

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 from the Clerk’s office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6]. The address is as follows: Clerk of the Board, Pollution Control 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 Extends Joint Committee on Administrative Rules’ Time for Second-Notice Review of Proposed Rulemaking for Amendments for Clean Construction or Demolition Debris Fill Operations Rules, R12-9

The Illinois Pollution Control Board, on July 26, 2012, adopted an order explaining that the second notice in proposed amendments to the rules for Clean Construction or Demolition Debris (CCDD) Fill Operations had been extended at the request of the Joint Committee on Administrative Rules (JCAR). On July 10, 2012, JCAR at its meeting requested, and the Board agreed, to extend for an additional 45-days the second notice period Under the Administrative Procedure Act (APA), 5 ILCS 5/1 et seq. Consequently, the Board could not complete rulemaking in July 2012 as planned.

The CCDD rulemaking was filed with the Board by the Illinois Environmental Protection Agency on July 29, 2011. The Board docketed the rulemaking as Proposed Amendments To Clean Construction Or Demolition Debris Fill Operations (CCDD): Proposed Amendments To 35 Ill. Adm. Code 1100, R12-9.

Public Act 96-1416, codified as Section 22.51 of the Environmental Protection Act, required IEPA to propose rules to the Board by July 30, 2011. 415 ILCS 4/22.51 (2010). The Board is required by the statute’s terms to complete rulemaking no later than one year after receipt of the IEPA’s proposal. *Id.* In its July 26, 2012 order, the Board explained that the result of JCAR’s request for additional time was that the Board could not timely adopt final rules.

Generally, the proposal will amend the Board’s rules for Clean Construction or Demolition Debris Fill Operations to allow for use of uncontaminated clean construction or demolition debris (CCDD) and soil to be used as fill.

On February 2, 2012, the Board adopted a first notice opinion and order and on June 7, 2012 the Board adopted a second notice opinion and order. At the July 10, 2012, JCAR requested, and the Board agreed, to extend the second notice period for an additional 45 days. The rule will again be considered by JCAR at its August 14, 2012 meeting. Under the APA, the Board cannot adopt the rule until the expiration of the second notice period. Therefore, the Board cannot adopt final rules any earlier than August 23, 2012, if JCAR issues a certificate of no objection to the rules.

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 from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6]. The address is as follows: Clerk of the Board, Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601

For more information contact Marie Tipsord at 312-814-4925 or email at tipsorm@ipcb.state.il.us.

Board Actions

July 12, 2012
Chicago, Illinois

Rulemakings

R12-13	<u>In the Matter of: Proposed Amendments to Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809)</u> – The Board adopted a final opinion and order in this rulemaking proposal which amends the Board's solid waste and special waste hauling regulations.	5-0 Land
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Administrative Citations

AC 12-53	<u>IEPA v. Thomas E. Porter, Beverly J. Bible, and Todd & Tabitha Booten d/b/a C & T Recycling</u> – The Board accepted for hearing respondents' petitions for review of this administrative citation involving a Williamson County facility.	5-0
AC 12-54	<u>IEPA v. Purcell Tire & Rubber Company</u> – The Board found that this Jefferson County respondent violated Section 55(k)(1) of the Environmental Protection Act (415 ILCS 5/55(k)(1) (2010)), and ordered respondent to pay a civil penalty of \$1,500.	5-0
AC 12-55	<u>County of Jackson v. S. I. Waste Systems, LLC d/b/a Midwest Waste</u> – The Board found that this Jackson County respondent violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2010)), and ordered respondent to pay a civil penalty of \$1,500.	5-0

Adjudicatory Cases

PCB 09-67	<u>Prime Location Properties, LLC v. IEPA</u> – The Board directed the parties to brief the issue of whether specified Illinois Supreme Court Rules vested the Board with jurisdiction to entertain petitioner’s motion for supplemental legal fees and costs.	5-0 UST Appeal
PCB 09-102	<u>Peter Arendovich v. The Illinois State Toll Highway Authority</u> – The Board found that there is a noise interference from the Interstate Route 355 extension on petitioner’s property, but that the interference is not unreasonable under 35 Ill. Adm. Code 900.102. The Board dismissed this case and closed the docket.	5-0 N-E, Citizens
PCB 10-9	<u>People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., 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.</u> – Upon receipt of an agreed motion to request relief from the hearing requirement and a proposed stipulation and settlement agreement as to Bridgestone Americas Tire Operations, LLC, formerly known as Bridgestone/Firestone, Inc., Momentive Specialty Chemicals Inc., formerly known as Borden, Inc.; and A.E. Staley Manufacturing Co., now known as Tate & Lyle Ingredients Americas LLC, the Board ordered publication of the required newspaper notice.	L-E 5-0
PCB 12-21	<u>People of the State of Illinois v. Altivity Packaging, LLC., Intra-Plant Maintenance Corporation, Ironhustler Excavating, Inc. and Ron Bright, d/b/a Quarter Construction</u> – The Board granted Altivity’s motion for leave to file cross claim and Intra-Plant’s Maintenance Corporation’s motion for leave to file cross-complaint. The Board dismissed both the cross claim and cross-complaint as frivolous, finding that each seeks relief the Board cannot grant.	5-0 L-E
PCB 12-52	<u>People of the State of Illinois v. Reliable Materials, LLC, GSG Consultants, Inc., O.C.A. Construction, Inc., Speedy Gonzalez Landscaping, Inc., and Public Building Commission of Chicago</u> – In this land enforcement action concerning a Cook 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) (2010)) and accepted a separate stipulation and settlement agreements as to GSG Consultants, Inc. only, ordering the respondent to pay a total civil penalty of \$25,000.00, and to cease and desist from further violations.	4-0 Burke abstained L-E
PCB 12-93	<u>People of the State of Illinois v. Kimble Septic, Inc. and Cleveland Kimble</u> – In this water enforcement action concerning a Will 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$1,000.00, and to cease and desist from further violations.	5-0 W-E
PCB 12-125	<u>People of the State of Illinois v. LaSalle Street Capital, Inc., an affiliate of Bank of America, National Association</u> – In this air enforcement action concerning a Cook 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$15,600.00, and to cease and desist from further violations.	5-0 A-E

PCB 12-129	<u>People of the State of Illinois v. Village of Orland Hills</u> – In this water enforcement action concerning a Cook 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$15,600.00, and to cease and desist from further violations.	5-0 A-E
PCB 13-1	<u>People of the State of Illinois v. Troy Carter</u> – The Board accepted for hearing this land enforcement action concerning a Marion County facility.	5-0 L-E
PCB 13-2	<u>Terminal Railroad Association of St. Louis 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 St. Clair County facility.	4-0 Holbrook abstained UST Appeal 90- Day Extension

**July 26, 2012
Chicago, Illinois**

Rulemakings

R12-9	<u>In the Matter of: Proposed Amendments to Clean Construction or Demolition Debris (CCDD) Fill Operations: Proposed Amendments to 35 Ill. Adm. Code 1100</u> – The Board adopted an order noting the Board’s July 10, 2012 agreement with the Joint Committee on Administrative Rules to extend the second notice period for an additional 45 days. The rule will again be considered by JCAR at its August 14, 2012 meeting. The Board will not move forward to adoption of the rules until the expiration of the second notice in August.	3-0 Burke and Zalewski abstained Land
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Adjusted Standards

AS 12-3	<u>Petition of Midway RACs, LLC for Adjusted Standard From 35 Ill. Adm. Code 218.586</u> – The Board accepted this request for an adjusted standard concerning a Cook County facility for hearing.	3-0 Holbrook and Zalewski abstained Air
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Administrative Citations

AC 10-30	<u>County of Jackson v. Frances Klink</u> – The Board entered a final opinion and order finding respondent violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), 21(p)(3), 21(p)(7) (2010)) and assessing a penalty of \$4,500.	5-0
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- AC 11-28** IEPA v. Thad Shafer – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and 21(p)(7) (2010)) and assessing a penalty of \$3,000. The Board ordered the Clerk of the Board and the Illinois Environmental Protection Agency to file by August 19, 2012, a statement of hearing costs, supported by affidavit, with service on respondent. Respondent may respond to the cost statement within 21 days of service. 5-0
- AC 12-56** IEPA v. Donald E. Gulley – The Board found that this Jefferson County respondent violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), 21(p)(3), 21(p)(7) (2010)) and assessing a penalty of \$4,500. 5-0
- AC 12-57** IEPA v. Gere Properties, Inc., Perry Ridge Landfill, Inc., and Mike Whitlock – The Board found that these Jefferson County respondents violated Sections 21(o)(5), 21(o)(6), and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(o)(5), 21(o)(6), 55(k)(1) (2010)) and assessing a penalty of \$2,500. 5-0
- AC 13-1** IEPA v. Anthony Koch – The Board accepted respondent’s petition for review, but directed respondent to file an amended petition to cure deficiencies. 5-0

Adjudicatory Cases

- PCB 12-48** People of the State of Illinois v. Phoenix Corporation of the Quad Cities – In this water enforcement action concerning a Carroll 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$20,000.00, and to cease and desist from further violations. 5-0
W-E
- PCB 12-130** The Premcor Refining Group, Inc. v. IEPA – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal. 5-0
P-A, Land
- PCB 13-3** People of the State of Illinois v. Edward W. Fisher, Rhonda L. Fisher, and DEM/EX Group, Inc., – The Board accepted for hearing this land enforcement action concerning a Mason County facility. 5-0
L-E

New Cases

July 12, 2012 Board Meeting

- 13-1** People of the State of Illinois v. Troy Carter – The Board accepted for hearing this land enforcement action concerning a Marion County facility.
- 13-2** Terminal Railroad Association of St. Louis 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 St. Clair County facility.
- AC 12-59** County of Macon v. Dale Pugley and Tracy Kater – The Board accepted an administrative citation against these Macon County respondents.
- AC 12-60** IEPA v. Howard G. Clifton, Trustee, and Clifton Salvage, Inc. – The Board accepted an administrative citation against these Jefferson County respondents.

AC 12-61 IEPA v. Joes W. McDermott, Joe W. McDermott d/b/a McDermott Sales & Service and Joseph R. McDermott d/b/a McDermott Towing & Recovery – The Board accepted an administrative citation against these Jefferson County respondents.

AC 13-1 IEPA v. Anthony Koch – The Board accepted an administrative citation – against this Saline County respondent.

R13-1 Definition of VOM Update, USEPA Amendments (January 1, 2012 through June 30, 2012) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.

R13-2 SDWA Update, USEPA Amendments (January 1, 2012 through June 30, 2012) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.

R13-3 UIC Update, USEPA Amendments (January 1, 2012 through June 30, 2012) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.

R13-4 RCRA Subtitle D Update, USEPA Amendments (January 1, 2012 through June 30, 2012) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.

R13-5 RCRA Subtitle C Update, USEPA Amendments (January 1, 2012 through June 30, 2012) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.

R13-6 UST Update, USEPA Amendments (January 1, 2012 through June 30, 2012) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.

R13-7 Wastewater Pretreatment Update, USEPA Amendments (January 1, 2012 through June 30, 2012) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.

July 26, 2012 Board Meeting

13-3 People of the State of Illinois v. Edward W. Fisher, Rhonda L. Fisher, and DEM/EX Group, Inc., – The Board accepted for hearing this land enforcement action concerning a Mason County facility.

AC 13-2 IEPA v. Greg Klehm – The Board accepted an administrative citation against this Livingston County respondent.

AC 13-3 IEPA v. E.G. Tabor and Ultimate Recycling, Inc. – The Board accepted an administrative citation against these Peoria County respondents.

AC 13-4 IEPA v. Dennis Zindars – The Board accepted an administrative citation against this Piatt County respondent.

AC 13-5 IEPA v. Ricky Stratton (IEPA File No. 176-12-AC) – The Board accepted an administrative citation against this Morgan County respondent.

AC 13-6 IEPA v. Ricky Stratton (IEPA File No. 181-12-AC) – The Board accepted an administrative citation against this Morgan County respondent.

AC 13-7 IEPA v. Robert Manker – The Board accepted an administrative citation against this Morgan County respondent.

AC 13-8 IEPA v. State Bank of Chrisman - Trust 527 – The Board accepted an administrative citation against this Edgar County respondent.

Provisional Variances

IEPA 13-1 Ameren Energy – E.D. Edwards v. Illinois Environmental Protection Agency

IEPA 13-4 Ameren Energy – E.D. Edwards v. Illinois Environmental Protection Agency

IEPA 13-9 Ameren Energy – E.D. Edwards v. Illinois Environmental Protection Agency

The Illinois Environmental Protection Agency granted Ameren Energy – E.D. Edwards (Ameren Edwards)' request for a provisional variance for its cooling water discharges. Ameren Edwards requested a variance from the thermal limits in NPDES Permit IL0001970 to allow Ameren Edwards to continue operating through this unusually hot and dry period of weather, resulting in higher than usual river temperatures. Ameren Edwards is an electric generating station located on the west side of the Illinois River in Bartonville, Peoria County. The provisional variance, which is, subject to conditions, began June 29, 2012. On July 10, 2012, Ameren Edwards submitted a request for an extension to its provisional variance granted in IEPA 13-1, due to continued hot weather. The extension was granted as requested. On July 17, 2012, Ameren Edwards submitted a request for a second extension of its provisional variance granted in IEPA 13-1. The second extension was granted as requested.

IEPA 13-2 Exelon Generating Company, L.L.C Quad Cities Nuclear Power Station v. Illinois Environmental Protection Agency

IEPA 13-5 Exelon Generating Company, L.L.C Quad Cities Nuclear Power Station v. Illinois Environmental Protection Agency

IEPA 13-11 Exelon Generating Company, L.L.C Quad Cities Nuclear Power Station v. Illinois Environmental Protection Agency

The Illinois Environmental Protection Agency granted, subject to conditions, Exelon Generating Company's request for a provisional variance from discharge limits contained in NPDES Permit IL0005037 for its Quad Cities Nuclear Power Station (Quad Cities). The variance allows Quad Cities' cooling water discharges to exceed the maximum temperature limit in Special Condition 7B of NPDES Permit IL 000-5037 by more than 5-degrees (91-degrees for July), or 2-degrees above ambient river temperature, whichever is greater. Quad Cities is a base load nuclear-fueled steam electric generating facility located near Cordova, on the Mississippi River at River Mile 506.8. Exelon states that when the ambient river temperatures approach or exceed the non-excursion hour limits, Quad Cities has no option other than to use excursion hours, and once its allotment of excursion hours is depleted, Quad Cities must cease operating altogether to maintain compliance with the NPDES Permit. The 13-2 variance period was from July 5, 2012 through July 15, 2012.

On July 15, 2012, Exelon submitted a request for an extension to the Quad Cities' provisional variance granted in IEPA 13-2, due to continued hot weather. The 13-5 variance period was from July 15, 2012 through July 25, 2012.

On July 19, 2012, Exelon submitted a request for a second extension to the Quad Cities' provisional variance granted in IEPA 13-2. The variance period was extended through August 8, 2012.

IEPA 13-3 Midwest Generation Joliet 9, Joliet 29, and Will County Stations v. Illinois Environmental Protection Agency

IEPA 13-6 Midwest Generation Joliet 9, Joliet 29, and Will County Stations v. Illinois Environmental Protection Agency

IEPA 13-10 Midwest Generation Joliet 9, Joliet 29, and Will County Stations v. Illinois Environmental Protection Agency

The Illinois Environmental Protection Agency (IEPA) granted Midwest Generation's request for provisional variance for its Joliet 9, Joliet Station 29, and Will County Station because of extremely hot weather conditions and the resulting maximum customer demand for electricity needed for commercial and residential cooling. Midwest Generation requested a provisional variance for its cooling water discharges from the thermal limits at the I-55 Bridge in the Lower Des Plaines River contained in these stations' NPDES permits (Joliet Station 9 NPDES Permit IL0002216; Joliet Station 29 NPDES Permit No. IL0064254; and Will County Station NPDES Permit NO. IL0002208). The 13-3 provisional variance, subject to conditions, terms began on July 4, 2012 and ended no later than July 13, 2012. Midwest Generation submitted a request for an extension to the Quad Cities' provisional

variance granted in IEPA 13-3, due to continued hot weather. The provisional variance granted in IEPA 13-6, subject to conditions, ended no later than July 23, 2012. Midwest Generation submitted another request for an extension, due to continued hot weather. The provisional variance granted in IEPA 13-10, subject to conditions, ended no later than August 5, 2012.

IEPA 13-7 Exelon Generation Company, LLC Dresden Nuclear Generation Station v. Illinois Environmental Protection Agency—The Illinois Environmental Protection Agency (IEPA) granted, subject to conditions, Exelon Generation Company Dresden Nuclear Generation Station's (Exelon Dresden) request for a provisional variance from Special Condition 3C of NPDES Permit IL0002224 for cooling water discharges. Exelon Dresden requested the provisional variance because the challenges encountered as a result of the continuing unseasonably high temperatures, elevated intake source water temperatures, very low flows in the Kankakee and Des Plaines Rivers, and lack of local precipitation present an undue hardship for Exelon to meet the effluent thermal limits of 90-degrees F contained in NPDES Permit IL0002224. Dresden is a nuclear-fueled steam electric generating facility located at the confluence of the Des Plaines and Kankakee Rivers near Morris. The term of this provisional variance is from July 18, 2012 and ends no later than August 1, 2012.

IEPA 13-8 Exelon Generation Company, LLC LaSalle County Station v. Illinois Environmental Protection Agency—The Illinois Environmental Protection Agency (IEPA) granted Exelon Generation Company LaSalle County Station's (LaSalle Station) request for a provisional variance from cooling water discharge limits contained in NPDES permit IL0048151. LaSalle Station requested the relief from NPDES Permit Special Condition 3B that requires river temperatures at the edge of the mixing zone for the month of July not to exceed 90-degrees F during non-excursion hours and 93-degrees F when excursion hours are being used. Specifically, LaSalle Station sought a provisional variance allowing the station to exceed the non-excursion hour temperature limit for July and August of 90-degrees F state in Special Condition 3(b) of NPDES Permit No. IL0048151 by no more than 5-degrees (95-degrees F) or 5-degrees F above ambient river temperature, whichever is greater. LaSalle State is located in the southeastern part of LaSalle County, six miles southeast of Marseilles, three miles west of State Highway 170, and a half-mile north of Grand Ridge-Mazon Road (LaSalle County Highway 6). The term of the provisional variance is July 19, 2012 through August 1, 2012.

Public Act 93-0152 (Senate Bill 222) amended Sections 35-37 of the Illinois Environmental Act (415 ILCS 5/5(b) (2010)) so that provisional variances are issued by the Illinois Environmental Protection Agency (IEPA). If the IEPA grants a provisional variance, then the IEPA must file a copy of its written decision with the Board. The Board must maintain copies of the provisional variances for public inspection. Copies of provisional variances can be obtained by contacting the Clerk's Office at (312) 814-3620, or by visiting the Board's Website at www.ipcb.state.il.us. If the IEPA denies a provisional variance request, then the applicant may initiate a proceeding with the Board for a full variance.

Calendar

8/1/2012 10:00 AM	PCB 12-126	Ameren Energy Resources v. IEPA	Illinois Pollution Control Board Hearing Room 1021 N. Grand Avenue East (North Entrance) Springfield
8/9/2012 11:00 AM	Illinois Pollution Control Board Meeting		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
8/21/2012 10:00 AM	R12-23	<u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u> (Continues until completed or through August 23, 2012)	IEPA Sangamo Room 1021 N. Grand Avenue East (North Entrance) Springfield
8/23/2012 9:00 AM	R11-18	<u>In the Matter of: Triennial Review of Water Quality Standards for Boron, Fluoride and Manganese: Amendments to 35 Ill. Adm. Code 301.106, 302.Subparts B,C, E, F and 303.312</u>	Pollution Control Board Hearing Room 1021 North Grand Avenue East (North Entrance) Springfield
8/23/2012 11:00 AM	Illinois Pollution Control Board Meeting		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
8/23/2012 1:00 PM	R12-24	<u>In the Matter of: Gasoline Volatility Standards and Motor Vehicle Refinishing: Proposed Amendments to 35 Ill. Adm. Code Parts 211, 215, 218, and 219</u>	Pollution Control Board Hearing Room 1021 North Grand Avenue East (North Entrance) Springfield
9/6/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago

9/12/2012 10:00 AM	PCB 10-48	<u>Broadus Oil Company v. IEPA</u>	Illinois Pollution Control Board Hearing Room 1021 N. Grand Avenue East (North Entrance) Springfield
9/12/2012 10:00 AM	PCB 11-63	<u>Beverly Powers f/d/b/a Dicks Super Service v. IEPA</u>	Illinois Pollution Control Board Hearing Room 1021 N. Grand Avenue East (North Entrance) Springfield
9/20/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
9/20/2012 1:00 PM	R12-24	<u>In the Matter of: Gasoline Volatility Standards and Motor Vehicle refinishing; Proposed Amendments to 35 Ill. Adm. Code Parts 211, 215, 218, and 219</u>	James R. Thompson Center Room 11-512 100 W. Randolph Street Chicago
10/3/2012 10:00 AM	PCB 12-101	<u>ConocoPhillips Company Permit Appeal v. IEPA</u>	County Board Room 203 Madison County Administration Building 157 N. Main St. Edwardsville
10/4/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
10/16/2012 10:00 AM	R12-23	<u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u>	St. Clair County Court House County Board Meeting Room B-564 5 th Floor 10 Public Square Belleville
10/18/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
10/23/2012 10:00 AM	R12-23	<u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u>	Brookens Administrative Center Lyle Shields (County Board) Meeting Room 1776 E. Washington Urbana
10/30/2012 10:00 AM	R12-23	<u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u>	DeKalb Municipal Building City Council Chambers Room 200 200 S. 4 th Street DeKalb
11/1/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago

<p>11/14/201 2 10:00 AM</p>	<p>R12-23</p>	<p><u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs):</u> <u>Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u></p>	<p>Highland Community College West Campus Conference Room 129 300 N. West Street Elizabeth</p>
<p>11/15/201 2 11:00 AM</p>	<p>Illinois Pollution Control Board Meeting</p>		<p>Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield</p>

Illinois Environmental Protection Agency
Division of Public Water Supplies
Restricted Status List - Public Water Supplies

JULY 2012

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
ALTERNATIVE BEHAVIOR TREATMENT CENTER - IL0977189	2	INADEQUATE PRESSURE TANK	50	6/15/1988
ARLINGTON REHABILITATION LIVING CENTER - IL0971110	2	INADEQUATE HYDRO STORAGE	180	12/1/2003
AURORA COMMUNITY WATER ASSN - IL0895750	2	INADEQUATE PRESSURE TANK	150	12/16/1988
BAHL WATER CORP - IL0855200	1	INADEQUATE PRESSURE TANK	700	12/15/1993
*BELMONT WATER INC - IL0755150	4	EXCEEDING MCL FOR ARSENIC	200	6/15/2012
BIGGSVILLE - IL0710050	5	EXCEEDANCES OF GROSS ALPHA AND COMBINED RADIUM MCL'S	350	4/1/2010
BRADLEY HEIGHTS SUBDIVISION - IL2015050	1	INADEQUATE PRESSURE TANK	192	9/13/1985
BRYANT - IL0570200	5	EXCEEDING THE MCL FOR COMBINED RADIUM	267	10/1/2010
*BUDA - IL0110100	1	EXCEEDING THE MCL FOR COMBINED RADIUM	600	6/15/2012
BUFFALO HOLLOW FARMS WATER ASSOCIATION - IL1430080	5	INADEQUATE PRESSURE STORAGE	44	6/16S/2008
CARROLL HEIGHTS UTILITIES COMPANY - IL0155200	1	INADEQUATE PRESSURE TANK	96	3/20/1981
CENTURY PINES APARTMENTS - IL0150020	1	INADEQUATE PRESSURE TANK	50	12/14/1990
COOKSVILLE - IL1130400	4	TTHM & HALOACIDIC ACIDS	300	9/15/2005
COYNE CNTR COOP - IL1615150	1	INADEQUATE PRESSURE TANK	150	12/15/1997
CROSEY COMMUNITY WATER - IL1135150	4	INADEQUATE PRESSURE TANK	31	3/20/1981
CRYSTAL CLEAR WATER COMPANY - IL1115150	2	INADEQUATE GROUND STORAGE AND PRESSURE TANK	885	9/16/1988
*CUTLER - IL1450050	7	EXCEEDING THE COMBINED MCL FOR RADIUM	676	6/15/2012
D L WELL OWNERS ASSOCIATION - IL0975380	2	INADEQUATE PRESSURE TANK	141	3/18/1983
DE KALB UNIV DVL CORP - IL0375148	1	INADEQUATE PRESSURE TANK	1050	12/16/1992

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
DELAND – IL1470200	4	EXCEEDING THE MAXIMUM CONTAMINANT LEVEL (MCL) FOR ARSENIC	475	3/16/2012
EAST END WATER ASSOCIATION - IL1610140	1	INADEQUATE STORAGE CAPACITY	40	3/15/2002
EAST MORELAND WATER CORPORATION - IL1975640	2	INADEQUATE PRESSURE TANK	135	3/15/1996
EDELSTEIN WATER COOPERATIVE – IL1435150	5	EXCEEDING THE MCL's FOR COMBINED RADIUM & GROSS ALPHA PARTICLE ACTIVITY	125	10/1/2010
*ELIZABETHTOWN – IL0690100	7	UNSAFE SOURCE	348	6/15/2012
EVERGREEN VILLAGE SUBDIVISION - IL1615310	1	INADEQUATE PRESSURE TANK	130	3/20/1981
FAIR ACRES SUBDIVISION - IL1975680	2	INADEQUATE PRESSURE TANK	156	10/19/1981
FOREST LAKE ADDITION –LAKE CO PW IL0975500	2	INADEQUATE PRESSURE TANK	204	12/16/1983
FRWRD-SKYLINE PLANT - IL0895030	2	INADEQUATE PRESSURE TANK	700	9/19/1986
GREAT OAKS AND BEACON HILLS APARTMENTS - IL2015488	1	INADEQUATE PRESSURE TANK	2420	12/17/1982
*GREEN MEADOW ESTATES OF ROCKFORD, LLC – IL2015495	1	INADEQUATE GROUND AND HYDRO PNEUMATIC STORAGE -	970	6/15/2012
HEATHERFIELD SUBDIVISION - IL0635150	2	INADEQUATE PRESSURE TANK	75	9/17/1982
HETTICK - IL1170500	5	TRIHALOMETHANE	182	6/15/2002
HIGHLAND SUBDIVISION - IL0895530	2	INADEQUATE PRESSURE TANK	60	9/16/1983
HILLVIEW SUBDIVISION - IL1975800	2	INADEQUATE PRESSURE TANK	100	3/15/1985
HOLY FAMILY VILLA - IL0310280	2	INADEQUATE PRESSURE TANK	200	9/15/1999
INGALLS PARK SUBDIVISION - IL1975880	2	INADEQUATE PRESSURE TANK	745	9/16/1983
LAKE LYNWOOD WATER SYSTEM - IL0735330	1	INADEQUATE PRESSURE TANK	75	8/31/1981
LARCHMONT SUBDIVISION - IL2015290	1	INADEQUATE PRESSURE TANK	64	6/17/1983
LARSON COURT APARTMENTS - IL1615728	1	INADEQUATE PRESSURE TANK	58	1/14/1982
LEGEND LAKES WATER ASSOCIATION - IL2015300	1	INADEQUATE PRESSURE TANK	283	3/14/1991
LIBERTY PARK HOMEOWNERS ASSOCIATION - IL0435600	2	INADEQUATE GROUND STORAGE CAPACITY	837	9/17/1992

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
LINDENWOOD WATER ASSOCIATION - IL1415300	1	INADEQUATE PRESSURE TANK	50	1/13/1982
LISBON NORTH, INC. - IL0631000	2	INADEQUATE PRESSURE TANK	30	9/14/1990
LONDON MILLS - IL0574620	5	INADEQUATE PRESSURE TANK	447	12/14/1984
LYNN WATER ASSOCIATION INC - IL0735100	1	INADEQUATE PRESSURE TANK	100	3/15/1995
LYNNWOOD WATER CORPORATION - IL0995336	1	INADEQUATE PRESSURE TANK	110	3/18/1983
M C L W SYSTEM, INC. - IL1315150	1	INADEQUATE SOURCE	98	3/20/1981
*MAEYSTOWN – IL1330200	6	EXCEEDING THE MCL FOR NITRATE	230	6/15/2012
*MALTA – IL0370350	1	INADEQUATE STORAGE (NO AUTO-START GENERATOR)	1175	6/15/2012
MOUND PWD - IL1635050	6	INADEQUATE PLANT CAPACITY	2200	6/17/1996
NORTH HENDERSON – IL1310300	1	INADEQUATE HYDROPNEUMATIC STORAGE	184	7/1/2011
NORTHWEST BELMONT IMPRV ASSN - IL0435900	2	INADEQUATE PRESSURE TANK	78	9/29/1981
*OAKLANE SUBDIVISION – IL0995250	1	EXCEEDING THE COMBINED RADIUM MCL	60	6/15/2012
*OAK RIDGE SD - IL2035300	1	INADEQUATE PRESSURE TANK	240	3/20/1981
OSCO MUTUAL WATER SUPPLY COMPANY, INC. - IL0735200	1	INADEQUATE PRESSURE TANK	115	12/15/1989
PANAMA - IL0054720	6	TTHM, DBP, INAD STORAGE	380	1/1/2006
POLO DR AND SADDLE RD SUBDIVISION - IL0437000	2	INADEQUATE PRESSURE TANK	90	12/17/1982
PORTS SULLIVAN LAKE OWNERS ASSOCIATION - IL0971160	2	INADEQUATE PRESSURE TANK	293	6/15/1999
PRAIRIE RIDGE ASSOCIATION - IL1115730	2	INADEQUATE PRESSURE TANK	130	10/1/2004
PRAIRIE ROAD PUMP ASSOCIATION- IL2015100	1	INADEQUATE STORAGE	150	1/1/2006
*RANSOM – IL0990900	1	EXCEEDING MCL FOR COMBINED RADIUM	483	6/15/2012
RIDGECREST NORTH SUBDIVISION - IL0635250	2	INADEQUATE PRESSURE TANK	60	9/16/1993
SHAWNITA TRC WATER ASSOCIATION - IL1977690	2	INADEQUATE PRESSURE TANK	125	9/17/1992
SILVIS HEIGHTS WATER CORP - IL1615750	1	INADEQUATE HYDRO STORAGE	1600	12/1/2003
SKYVIEW SBDV - IL0915526	2	INADEQUATE PRESSURE	45	3/16/1990

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
		TANK		
STRATFORD WEST APARTMENTS - IL1095200	5	INADEQUATE PRESSURE TANK	39	12/17/1982
SUBURBAN HEIGHTS SUBDIVISION - IL1615800	1	INADEQUATE PRESSURE TANK	82	12/16/1983
SUNNY HILL ESTATES SUBDIVISION - IL0735300	1	INADEQUATE PRESSURE TANK	525	6/15/2000
SUNNYLAND SUBDIVISION - IL1977730	2	INADEQUATE PRESSURE TANK	350	9/16/1983
SWEDONA WATER ASSOCIATION - IL1315200	1	INADEQUATE PRESSURE TANK	157	6/15/1990
SYLVAN LAKE 1ST SUBDIVISION - IL0977100	2	INADEQUATE PRESSURE TANK	210	6/14/1991
TOWNERS SUBDIVISION - IL0977250	2	INADEQUATE PRESSURE TANK	210	1/14/1982
UTILITIES INC HOLIDAY HILLS - IL1115350	2	INADEQUATE PRESSURE TANK	729	9/16/1983
UTL INC-LAKE HOLIDAY - IL0995200	1	INAD SOURCE & TREATMENT PLT	5460	9/15/1998
UTL INC-NORTHERN HILLS UTILITIES COMPANY - IL1775050	1	INADEQUATE PRESSURE TANK	500	3/15/1996
UTL INC-WALK-UP WOODS WATER COMPANY - IL1115800	2	INADEQUATE PRESSURE TANK	654	12/17/1982
*VALLEY VIEW SUBDIVISION - IL2030010	1	INADEQUATE HYDROPNEUMATIC STORAGE	100	6/15/2012
WIENEN ESTATES - IL0850030	1	INADEQUATE PRESSURE TANK	70	12/15/1997
WONDER LAKE WATER COMPANY - IL1115750	2	INADEQUATE PRESSURE TANK	1442	6/16/1994

WATER SYSTEMS REMOVED FROM PREVIOUS LIST

NONE

* DENOTES ADDED WATER SUPPLIES

Illinois Environmental Protection Agency
Division of Public Water Supplies
Critical Review List - Public Water Supplies

JULY 2012

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
ANDALUSIA - IL1610050	1	INADEQUATE PRESSURE TANK	1050	12/1/2003
ANNA-JONESBORO WATER COMMISSION – IL1815050	7	LACKS EXISTING TREATMENT CAPACITY	36	7/1/2011
ANNA WATER COMMISSION – IL1810050	7	**	5750	7/1/2011
BEASON CHESTNUT PWD - IL1075150	5	INAD PLANT & SOURCE CAP	600	6/15/2004
CANTON – IL0570250	5	INSUFFICIENT TREATMENT CAPACITY	13932	3/15/2007
CEDARVILLE - IL1770050	1	EMERGENCY POWER	800	1/1/2006
COLLINSVILLE – IL1194280	6	INADEQUATE STORAGE	29500	1/1/2008
COLUMBIA - IL1330050	6	INADEQUATE PUMPING CAPACITY	8365	3/15/1998
EDWARDSVILLE – IL1190250	5	INSUFFICIENT PLANT CAPACITY TO HANDLE PEAK SYSTEM WATER DEMAND	24,900	9/16/2008
ELIZABETH - IL0850150	1	LOW SYSTEM PRESSURE	682	6/15/1999
EXETER-MERRITT WATER COOP - IL1710010	5	INADEQUATE PRESSURE TANK	428	10/1/2004
GALENA - IL0850200	1	LOW SYSTEM PRESSURE	3640	6/15/1999
GRIGGSVILLE – IL1490300	5	INADEQUATE TREATMENT PLANT CAPACITY	1259	10/1/2006
HOLIDAY SHORES SD - IL1195110	6	INADEQUATE STORAGE CAPACITY	3192	1/1/2006
IL AMERICAN-ALTON	6	APPROACHING WATER TREATMENT PLANT CAPACITY	51922	4/1/2009
IL AMERICAN-E ST. LOUIS - IL1635040	6	APPROACHING INADEQUATE STORAGE CAPACITY	155382	1/01/2011
JONESBORO PWS – IL1810250	7	**	1853	7/1/2011
JOY - IL1310100	1	LOW SYSTEM PRESSURE	373	6/15/1999
LA SALLE - IL0990300	1	INAD PLANT & SOURCE CAPACITY	9700	11/1/2004
LACON - IL1230100	1	UNDERSIZED WATERMAINS	1979	1/1/2006
LICK CREEK PWD – IL1815100	7	**	1929	7/1/2011
MALDEN - IL0110550	1	UNDERSIZED WATERMAINS	370	1/1/2006
MASON CITY - IL1250350	5	INADEQUATE STORAGE	2558	1/1/2006

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTING DATE</i>
		CAPACITY		
MATHERSVILLE - IL1310200	1	INADEQUATE SYSTEM PRESSURE	793	9/13/2000
MC HENRY SHORES WATER COMPANY - IL1115020	2	LOW SYSTEM PRESSURE	1813	9/17/1992
SCALES MOUND - IL0850400	1	LOW SYSTEM PRESSURE	400	9/15/1997
SENECA - IL0991050	1	INADEQUATE PLANT CAPACITY AND UNDERSIZED WATER MAINS	2053	6/15/1999
SHAWNEE VALLEY PWD – IL1815550	7	**	952	7/1/2011
STOCKTON - IL0850450	1	LOW SYSTEM PRESSURE	1871	6/15/1984
SUMNER - IL1010300	7	LOW SYSTEM PRESSURE	1481	12/13/1985
UTL INC-LAKE MARIAN WATER CORPORATION - IL0895200	2	INAD PRES STORAGE & LOW SYS PRES	924	9/14/1984
WALNUT HILL - IL1210600	6	LOW SYSTEM PRESSURE	1470	6/14/1985
WITT – IL1350850	5	INADEQUATE TREATMENT CAPACITY	991	3/17/2008
WORDEN - IL1191200	6	INADEQUATE STORAGE CAPACITY	906	1/1/2006

WATER SYSTEMS REMOVED FROM PREVIOUS LIST

EFFINGHAM – IL0490250

HAMEL – IL1190450

MARION – IL1990550

O’FALLON – IL1631100

WATERLOO – IL1330300

*** DENOTES ADDED WATER SUPPLIES**

**** THESE PUBLIC WATER SUPPLIES OBTAIN WATER FROM ANNA-JONESBORO WATER COMMISSION (IL1815050) WHICH LACKS EXISTING TREATMENT CAPACITY.**

Restricted Status/Critical Review

The Environmental Protection Act prohibits the Agency from issuing a construction permit that will cause or extend a violation. A construction permit to expand the distribution system cannot be granted when a water supply has a maximum contaminant level or treatment technique violation, an inadequate source of raw water supply, inadequate treatment plant capacity, finished water storage or distribution system pressure. A Restricted Status List is published quarterly in the Illinois Pollution Control Board Environmental Register to notify those persons considering expansion of a water supply distribution system of that status before large sums of money have been spent on items such as land acquisition, financing and engineering fees. A companion Critical Review List is published concurrently with the Restricted Status List and has the water supplies that are approaching a point where the supply could be placed on Restricted Status. A permit application from a supply on Critical Review will be examined carefully to ensure that the

proposed construction will not cause a violation. Restricted Status and Critical Review are presented as a combined list with the status of the water supply denoted as either RS (Restricted Status) or CR (Critical Review). The current list reflects the status as of July 1, 2012. An asterisk, * , beside the water supply indicates public water supplies that have been added to the Restricted Status/Critical Review list since the previous publication.

Restricted Status List

The Restricted Status List was developed to give additional notification to officials of public water supplies which are in violation of 35 Ill. Adm. Code, Subtitle F: Public Water Supplies, Chapter I or the Illinois Environmental Protection Act.

The Restricted Status List will include all Public Water Supplies for which the Agency has information indicating a violation of any of the following requirements: Finished water quality requirements of 35 Ill. Adm. Code, Part 604, Subparts B and C; maintenance of adequate pressure on all parts of the distribution system under all conditions of demand; meeting raw water quantity requirements of 35 Ill. Adm. Code 604.502; or maintenance of treatment facilities capable of providing water "assuredly adequate in quantity" as required by Section 18 of the Illinois Environmental Protection Act.

A public water supply on the Restricted Status List will not be issued permits for water main extensions, except for certain limited situations, or unless the supply has been granted a variance from the Illinois Pollution Control Board for the violation, or from permit issuance requirements of Section 39 of the Act.

This list is continually being revised as new information becomes available, and therefore, specific inquiries as to the status of any public water supply should be directed to the Division of Public Water Supplies for final determination.

Critical Review List

The Critical Review List was developed to give additional notification to officials of public water supplies which may be close to being in violation of 35 Ill. Adm. Code, Subtitle F: Public Water Supplies, Chapter I or the Illinois Environmental Protection Act.

A supply will be placed on the Critical Review List when Agency records indicate that it is approaching any of the violations that would place it on the Restricted Status List.

This list is continually being revised as new information becomes available, and therefore, specific inquiries as to the status of any public water supply should be directed to the Division of Public Water Supplies for final determination.

Class III Groundwater Listing Statement

In accordance with 35 Ill. Adm. Code 620.230(b)(2), the Illinois Environmental Protection Agency (“Illinois EPA”) publishes a final listing of the following dedicated nature preserves (“DNP(s)”), as Class III: Special Resource Groundwater (Class III Groundwater): Cotton Creek Marsh; Exhibit 1 , George B. Fell; Exhibit 2, Gladstone Fen; Exhibit 3, Goose Lake Prairie; Exhibit 4, Spring Grove Fen; exhibit 5 and Trout Park; Exhibit 6. This is the fifth Class III petition received by the Illinois EPA, and the third to include multiple DNPs.

Based upon the authority of 35 Ill. Adm. Code 620.230, Class III 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 written requests to list DNPs as Class III Groundwater. Upon confirmation of the technical adequacy, the Illinois EPA must publish the proposed listing of the DNP in the Environmental Register for a 45-day public comment period. After the comment period the Illinois EPA must, within 60 days, either publish a final listing of the DNP as Class III Groundwater in the Environmental Register or provide a written response to the requestor stating why the DNP will not be listed as Class III Groundwater.

The Groundwater Section of the Bureau of Water, at the Illinois EPA, completed the review required according to the criteria specified in Subsection 620.230(b)(1) and found the petitions to be technically adequate. The proposed listing was published in the April 2012 Environmental Register, Number 694. No comments were received during the 45-day public comment period. Therefore, the Illinois EPA is publishing the following final listing of DNPs as Class III Groundwater in the Environmental Register:

Cotton Creek Marsh: Exhibit 1

Goose Lake Prairie: Exhibit 4

George B. Fell: Exhibit 2

Spring Grove Fen: Exhibit 5

Gladstone Fen: Exhibit 3

Trout Park: Exhibit 6

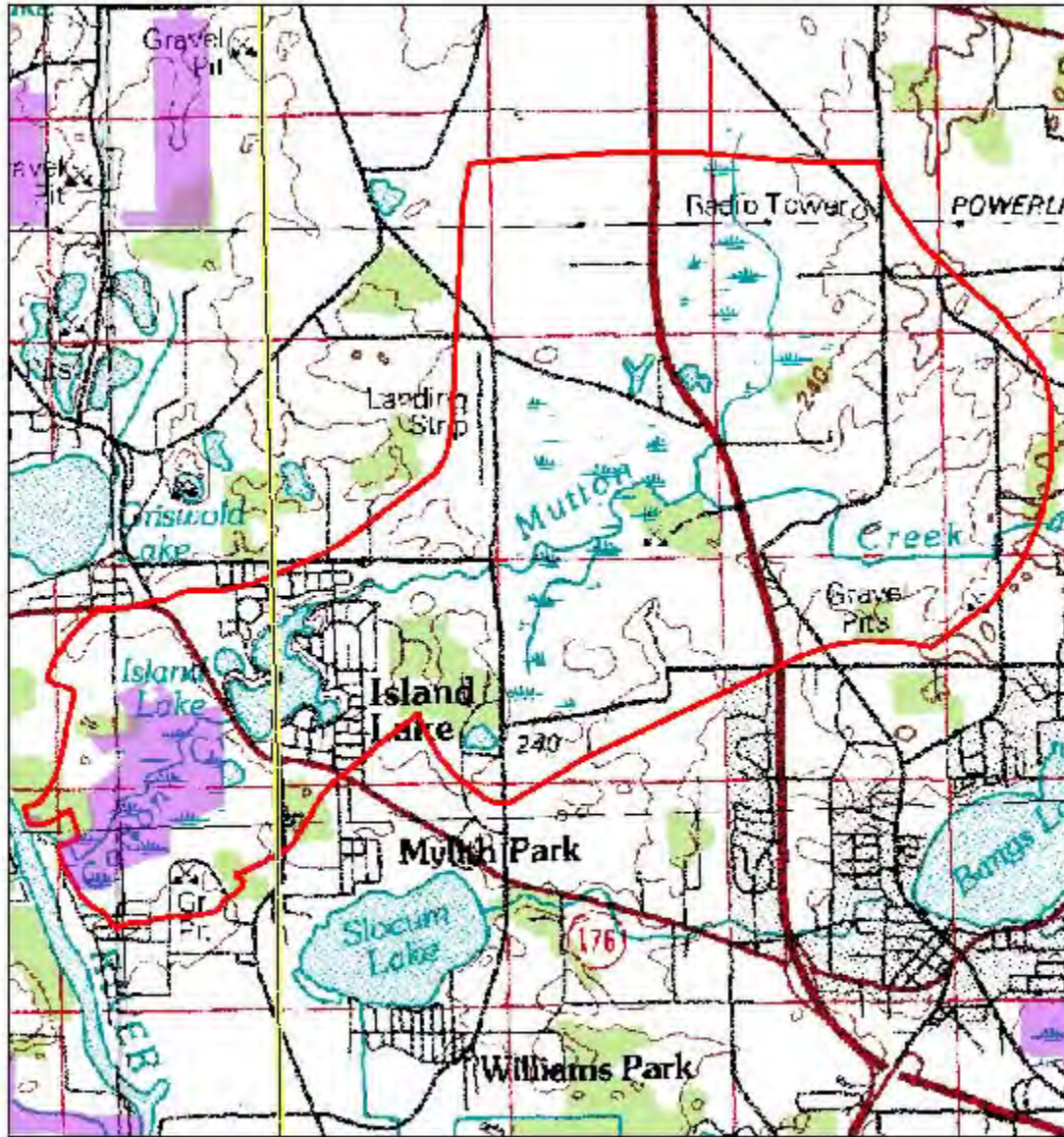
Questions regarding Class III Groundwater and hard copies of the listing exhibits can be obtained by mail, telephone or e-mail at the following:

Lynn E. Dunaway, P.G.
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




EXHIBIT 1

Cotton Creek Marsh Class III Designation Final Listing

Cotton Creek Marsh Class III Groundwater Area



Legend

-  Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries

0 0.25 0.5 1 1.5 2 Miles

Cotton Creek Marsh Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) publishes a final listing of Cotton Creek Marsh, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater (Class III Groundwater). Cotton Creek Marsh Nature Preserve is located on the eastern boundary of McHenry County, in the Village of Island Lake. Plant communities at this site include marsh, sedge meadow, low gradient creek, wet prairie, successional fields and fen, which depend on the specialized hydrogeologic conditions to deliver mineral-rich groundwater for their continued survival. The marsh is also home to two threatened plants and one threatened animal. Cotton Creek Marsh is a 249.1 acre tract of land owned by the McHenry County Conservation District, located in Sections 20 and 29, Township 44 North, Range 9 East, McHenry County. The Groundwater Contribution Area (GCA), which is proposed for Class III designation, is 8.1 square miles (5,184 acres) surrounding the marsh and stretching to the northeast, extending into Lake County.

Under the authority of 35 Ill. Adm. Code 620.230, Class III 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 written requests to list DNPs as Class III Groundwater. Upon confirmation of the technical adequacy of a request, the Illinois EPA is required to publish the proposed listing of the DNP in the Environmental Register for a 45-day public comment period. After the comment period, the Illinois EPA can either publish a final listing of the DNP as Class III Groundwater in the Environmental Register or provide a written response to the requestor stating why the DNP will not be listed as Class III Groundwater.

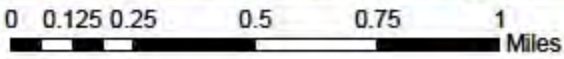
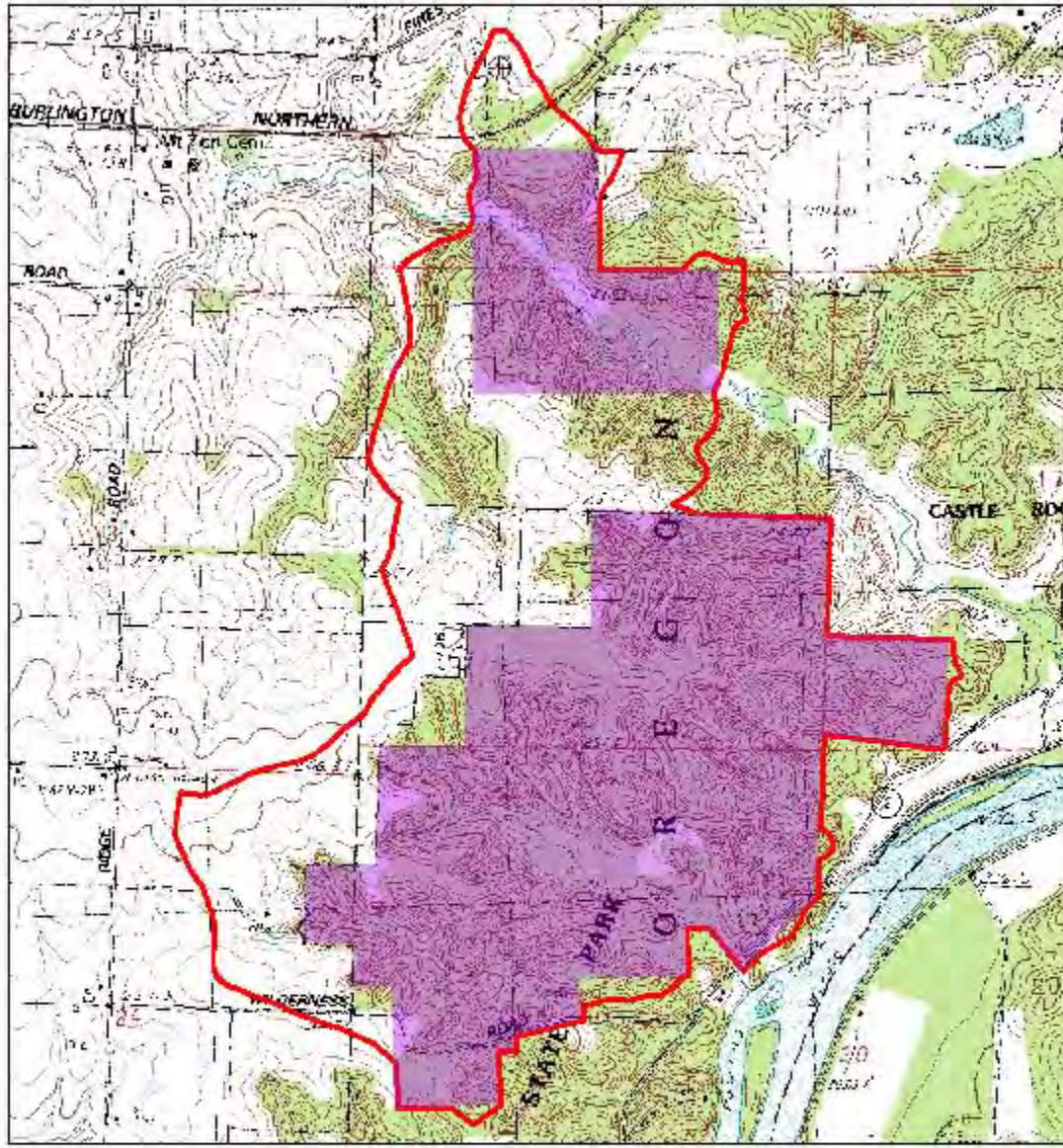
For the Cotton Creek Marsh DNP, the Illinois EPA completed the technical adequacy review and published a proposed listing of this DNP as Class III Groundwater in the April 2012 Environmental Register, Number 694. No public comments were received. The Illinois EPA now publishes a final listing of the Cotton Creek Marsh in the Environmental Register as Class III Groundwater.

EXHIBIT 2



George B. Fell

Class III Designation Final Listing

George B. Fell Class III Groundwater Area



Legend

-  Class III Groundwater Area
-  Dedicated Nature Preserves

George B. Fell Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) publishes a final listing of George B. Fell, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater (Class III Groundwater). George B. Fell DNP is located in central Ogle County, Illinois, as a part of Castle Rock State Park, near the City of Oregon. The preserve is recognized as having the only remaining assemblage of relict boreal plants of their type left in Illinois. The DNP is documented to support at least ten state-listed threatened or endangered plants and two state-threatened animals. The 709 acre nature preserve is divided into a northern portion and a southern portion, situated in Sections 7, 17, 18, and 19 in Township 23 North, Range 10 East and in Section 24 in Township 23 North, Range 9 East, of the Third Principal Meridian. The Groundwater Contribution Area (GCA) for the preserve, which is proposed for Class III designation, totals 1.6 square miles (1,024 acres), within 0.5 and 0.25 miles around the edges of the northern and southern portions, respectively.

Under the authority of 35 Ill. Adm. Code 620.230, Class III 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 written requests to list DNPs as Class III Groundwater. Upon confirmation of the technical adequacy of a request, the Illinois EPA is required to publish the proposed listing of the DNP in the Environmental Register for a 45-day public comment period. After the comment period, the Illinois EPA can either publish a final listing of the DNP as Class III Groundwater in the Environmental Register or provide a written response to the requestor stating why the DNP will not be listed as Class III Groundwater.

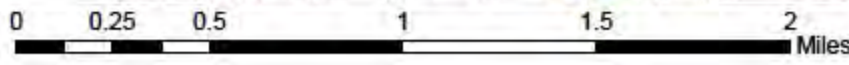
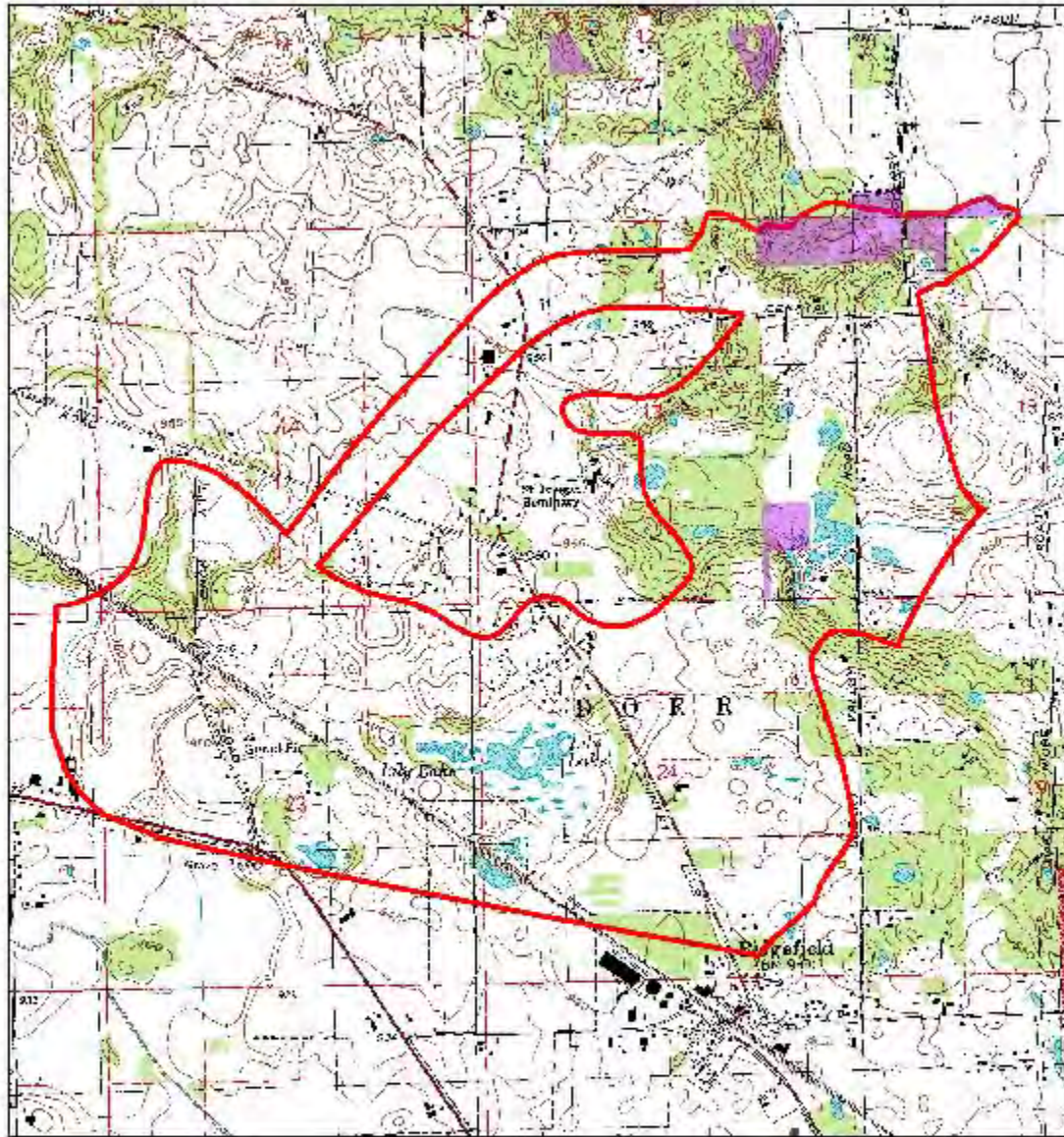
For the George B. Fell DNP, the Illinois EPA completed the technical adequacy review and published a proposed listing of this DNP as Class III Groundwater in the April 2012 Environmental Register, Number 694. No public comments were received. The Illinois EPA now publishes a final listing of the George B. Fell DNP in the Environmental Register as Class III Groundwater.

EXHIBIT 3



Gladstone Fen

Class III Designation Final Listing

Gladstone Fen Class III Groundwater Area



Legend

-  Class III Groundwater Area
-  Dedicated Nature Preserves

Gladstone Fen Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) publishes a final listing of Gladstone Fen, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater (Class III Groundwater). Gladstone Fen Nature Preserve is located on an 11.8 acre tract located within and adjacent to a 38 acre tract included in the Illinois Natural Areas Inventory (INAI) in east central McHenry County, near the Village of Bull Valley. The sensitive ecological communities include fen, sedge meadow, prairie and oak savanna. Both the fen and sedge meadow rely on naturally mineralized groundwater to support their biological communities. The site is also documented to support two state-threatened plants. Jointly owned by Lorna and Evan Gladstone and the McHenry County Conservation District, Gladstone Fen and the INAI form an interdependent area that consists of 49.8 acres positioned in Section 18, Township 44 North, Range 8 East, of the Third Principal Meridian. The Groundwater Contribution Area (GCA), which is proposed for Class III designation, extends southwest of the preserve, covering 2.64 square miles (1,690 acres).

Under the authority of 35 Ill. Adm. Code 620.230, Class III 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.

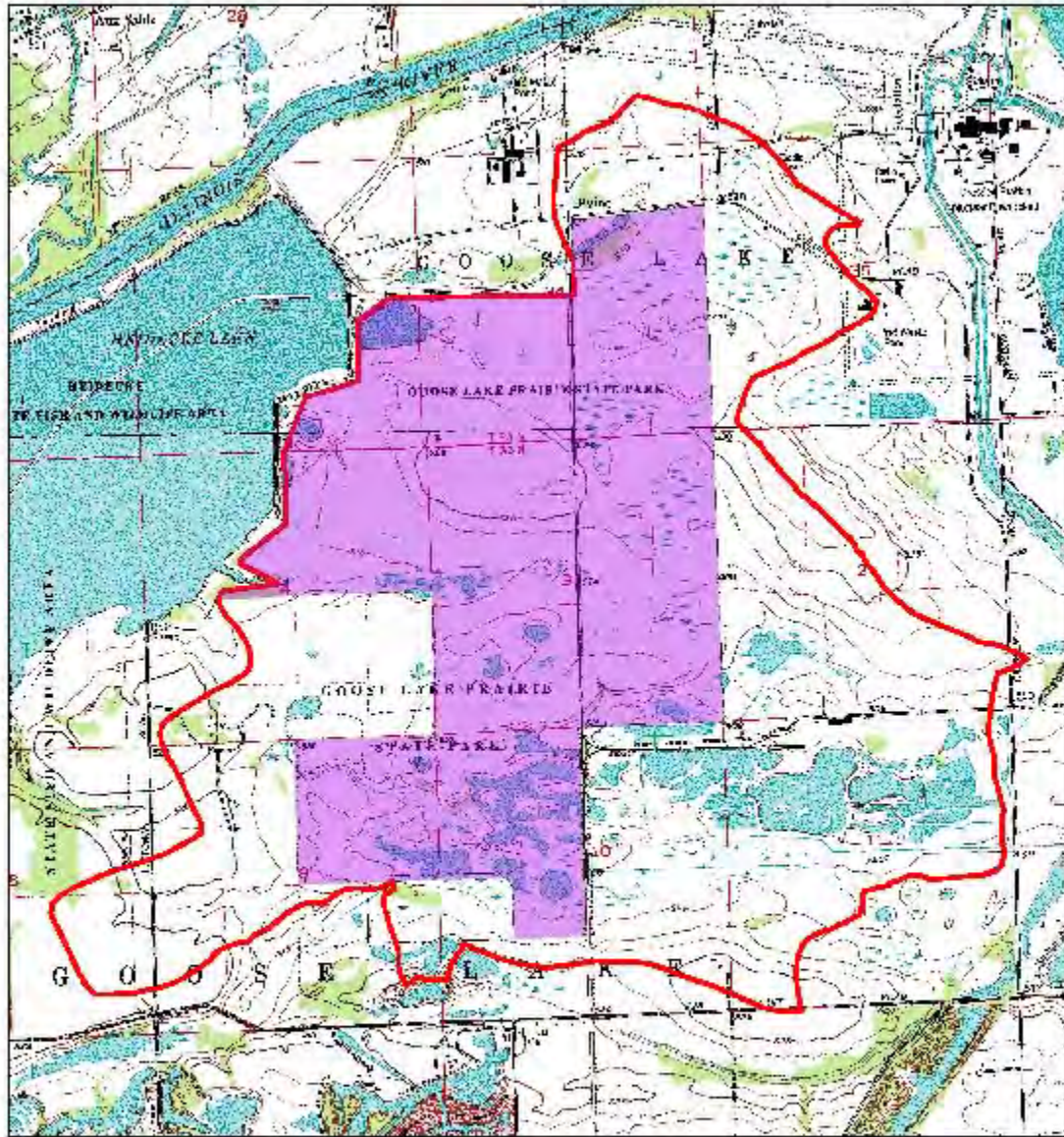
The Illinois EPA is required to review written requests to list DNPs as Class III Groundwater. Upon confirmation of the technical adequacy of a request, the Illinois EPA is required to publish the proposed listing of the DNP in the Environmental Register for a 45-day public comment period. After the comment period, the Illinois EPA can either publish a final listing of the DNP as Class III Groundwater in the Environmental Register or provide a written response to the requestor stating why the DNP will not be listed as Class III Groundwater.

For the Gladstone Fen DNP, the Illinois EPA completed the technical adequacy review and published a proposed listing of this DNP as Class III Groundwater in the April 2012 Environmental Register, Number 694. No public comments were received. The Illinois EPA now publishes a final listing of the Gladstone Fen DNP in the Environmental Register as Class III Groundwater.

EXHIBIT 4


Goose Lake Prairie Class III Designation Final Listing

Goose Lake Prairie Class III Groundwater Area



0 0.25 0.5 1 1.5 2 Miles

Legend

-  Class III Groundwater Area
-  Dedicated Nature Preserves

Goose Lake Prairie Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) publishes a final listing of Goose Lake Prairie, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater (Class III Groundwater). Goose Lake Prairie Nature Preserve is located on 1,628 acres in Sections 3, 4, 9, and 10 in Township 33 North, Range 8 East and portions of Sections 33 and 34 in Township 34 North, Range 8 East, Grundy County, on property owned by the Illinois Department of Natural Resources. Goose Lake Prairie represents the largest remnant prairie in Illinois. Fifteen species of State threatened and State endangered species survive in the prairie or use it for nesting. Included among the rare animals are two species of moths; one species had never before been classified and named, and the other species was thought to be extinct until it was rediscovered at Goose Lake Prairie in 1995. The groundwater at the site is important to this unique community, particularly the wet prairie areas. The Groundwater Contribution Area (GCA) for Goose Lake Prairie, which is proposed for Class III designation, extends primarily to the south of the nature preserve and encompasses 5.7 square miles (3,648 acres).

Under the authority of 35 Ill. Adm. Code 620.230, Class III 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.

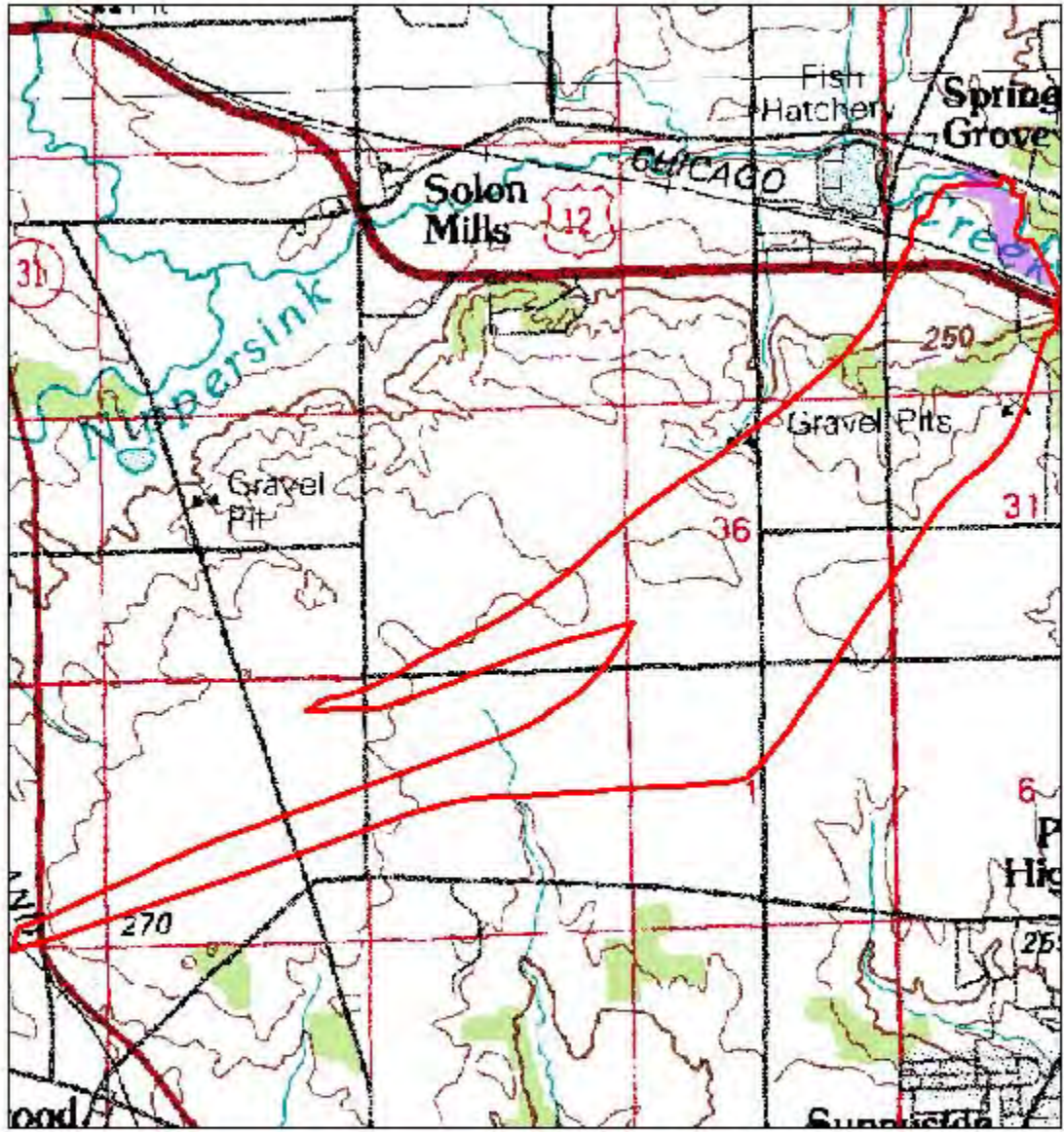
The Illinois EPA is required to review written requests to list DNPs as Class III Groundwater. Upon confirmation of the technical adequacy of a request, the Illinois EPA is required to publish the proposed listing of the DNP in the Environmental Register for a 45-day public comment period. After the comment period, the Illinois EPA can either publish a final listing of the DNP as Class III Groundwater in the Environmental Register or provide a written response to the requestor stating why the DNP will not be listed as Class III Groundwater.

For the Goose Lake Prairie DNP, the Illinois EPA completed the technical adequacy review and published a proposed listing of this DNP as Class III Groundwater in the April 2012 Environmental Register, Number 694. No public comments were received. The Illinois EPA now publishes a final listing of the Goose Lake Prairie DNP in the Environmental Register as Class III Groundwater.

EXHIBIT 5

Spring Grove Fen Class III Designation Final Listing

Spring Grove Fen Class III Groundwater Area



Legend

-  Class III Groundwater Area
-  Dedicated Nature Preserves

Spring Grove Fen Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) publishes a final listing of Spring Grove Fen, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater (Class III Groundwater). Spring Grove Fen Nature Preserve is located on a series of glacial terraces along Nippersink Creek, southeast of Spring Grove. The 33.4 acre parcel is owned by the McHenry County Conservation District and is in Section 30, Township 46 North, Range 9 East, McHenry County. The mineral rich groundwater discharging on the nature preserve contributes to the perpetuation of high quality graminoid fen and very high quality sedge meadow communities. The nature preserve is known to harbor one State endangered plant, one State threatened plant and one State threatened animal. The Groundwater Contribution Area (GCA) for Spring Grove Fen Nature Preserve, which is proposed for Class III designation, is 2.4 square miles (1,550 acres) that extends to the southwest of the preserve.

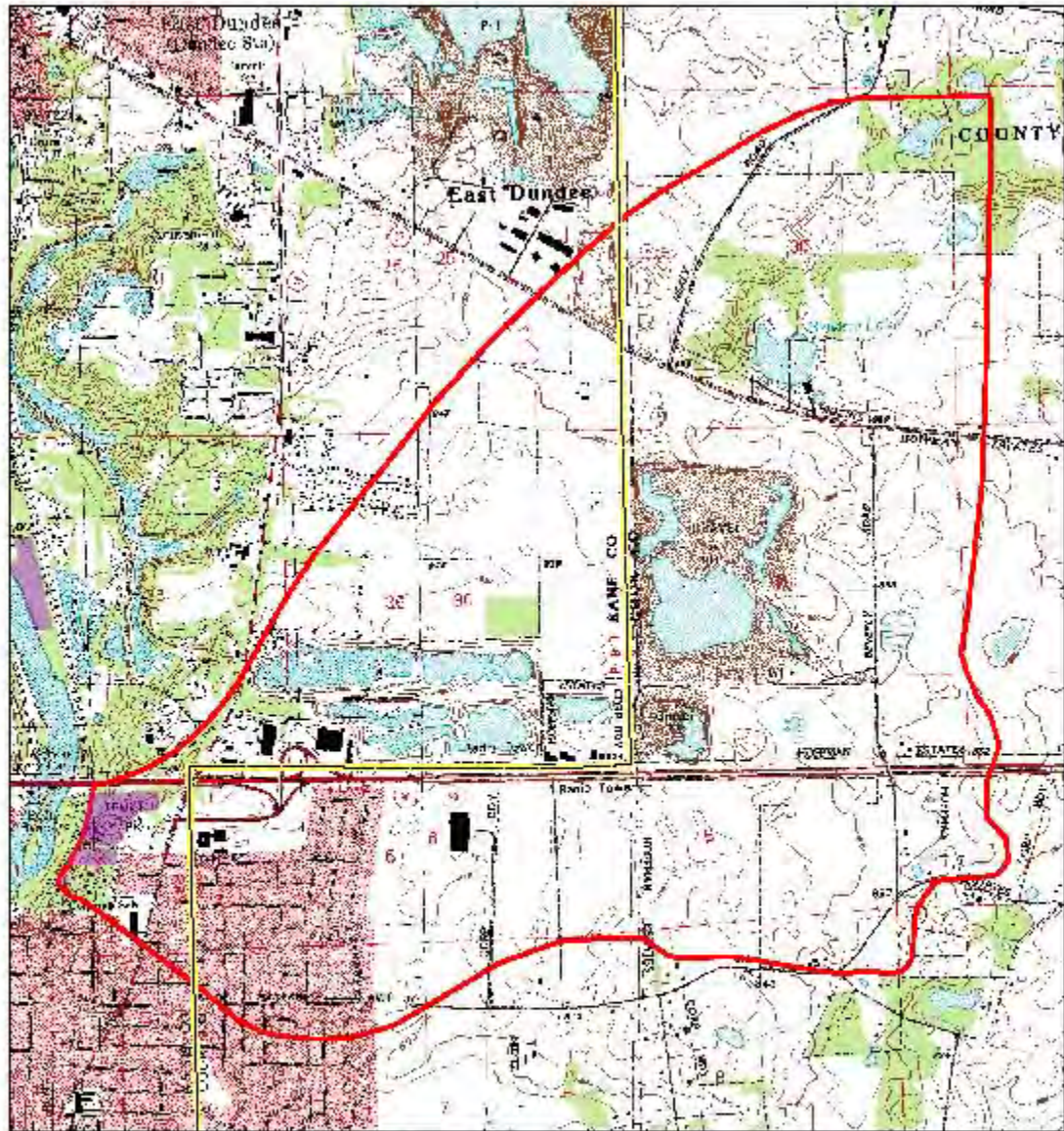
Under the authority of 35 Ill. Adm. Code 620.230, Class III Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard 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 written requests to list DNPs as Class III Groundwater. Upon confirmation of the technical adequacy of a request, the Illinois EPA is required to publish the proposed listing of the DNP in the Environmental Register for a 45-day public comment period. After the comment period, the Illinois EPA can either publish a final listing of the DNP as Class III Groundwater in the Environmental Register or provide a written response to the requestor stating why the DNP will not be listed as Class III Groundwater. For the Spring Grove Fen DNP, the Illinois EPA completed the technical adequacy review and published a proposed listing of this DNP as Class III Groundwater in the April 2012 Environmental Register, Number 694. No public comments were received. The Illinois EPA now publishes a final listing of the Spring Grove Fen DNP in the Environmental Register as Class III Groundwater.

EXHIBIT 6




Trout Park

Class III Designation Final Listing

Trout Park Class III Groundwater Area



Legend

-  Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries

0 0.25 0.5 1 1.5 2 Miles

Trout Park Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) publishes a final listing of Trout Park, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater (Class III Groundwater). Trout Park Nature Preserve consists of two parcels totaling 26.8 acres owned by the City of Elgin. The nature preserve is located in Section 1, Township 41 North, Range 8 East, Kane County. Of the total acreage contained in the nature preserve, 9.5 acres are composed of a rare, forested fen. Only 14.5 acres of forested fen are known to exist in Illinois. The forested fen is supported by the highly mineralized groundwater. The cool groundwater seeps and the ravines combine to form a microclimate, which support one state endangered and two state threatened plant species. The cooler than normal microclimates within the ravines allow plants and animals typically found further north, such as the Northern White Cedar, to survive in Illinois. The Northern White Cedar is typically found in Canada, northern Minnesota and east to the New England states. The Groundwater Contribution Area (GCA) for Trout Park Nature Preserve, which is proposed for Class III designation, is 4.9 square miles (3,109 acres) that located to the northeast of the preserve and extends into Cook County.

Under the authority of 35 Ill. Adm. Code 620.230, Class III 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.

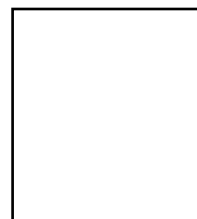
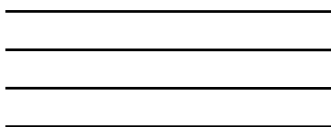
The Illinois EPA is required to review written requests to list DNPs as Class III Groundwater. Upon confirmation of the technical adequacy of a request, the Illinois EPA is required to publish the proposed listing of the DNP in the Environmental Register for a 45-day public comment period. After the comment period, the Illinois EPA can either publish a final listing of the DNP as Class III Groundwater in the Environmental Register or provide a written response to the requestor stating why the DNP will not be listed as Class III Groundwater.

For the Trout Park DNP, the Illinois EPA completed the technical adequacy review and published a proposed listing of this DNP as Class III Groundwater in the April 2012 Environmental Register, Number 694. No public comments were received. The Illinois EPA now publishes a final listing of the Trout Park DNP in the Environmental Register as Class III Groundwater.

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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Environmental Register Coordinator
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Environmental Register

April 2012 - Number 694

The Environmental Register is a Publication of the Illinois Pollution Control Board

Thomas Holbrook, Chairman

Board Members:

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Letter from the Chairman

During April, the Board acted in several rulemaking dockets, and I've summarized that activity below. As always, information about these rulemakings is available through the Clerk's Office Online (COOL) at our Web site at www.ipcb.state.il.us.

On April 6, 2012, in Proposed Amendments to Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809) (R12-13), the Board's first-notice proposal adopted on March 15, 2012, appeared in the *Illinois Register*. See 36 Ill. Reg. 5095 (Apr. 6, 2012). The proposal seeks to implement Public Act 97-220, which amends the Environmental Protection Act (Act) to remove Illinois from the federal Uniform State Hazardous Materials Transportation Registration and Permit Program.

On April 13, 2012, in Triennial Review of Water Quality Standards for Boron, Fluoride and Manganese: Amendments to 35 Ill. Adm. Code 301.106, 302.Subparts B, C, E, F and 303.312 (R11-18), the Board's first-notice proposal adopted on March 15, 2012, appeared in the *Illinois Register*. See 36 Ill. Reg. 5713 (Apr. 13, 2012).

On April 17, 2012, in Standards and Limitations for Organic Material Emissions for Area Sources; Amendments to 35 Ill. Adm. Code Part 223 (R12-8), the Joint Committee on Administrative Rules issued its certificate of no objection to the Board's second-notice proposal adopted on March 15, 2012. The proposal seeks to reduce emissions of volatile organic material (VOM) from various consumer and commercial products and aerosol coatings.

On April 19, 2012, in Tiered Approach to Corrective Action Objectives (TACO) (Indoor Inhalation): Amendments to 35 Ill. Adm. Code 742 (R11-9), the Board adopted a first-notice opinion and order proposing a new exposure route under TACO: indoor inhalation. To protect building occupants, this exposure route addresses the potential for vapors to migrate into buildings from underlying volatile chemicals in soil or groundwater.

On April 19, 2012, in Safe Drinking Water Act Update, USEPA Amendments (January 1, 2011 through June 30, 2011) (R12-4), the Board adopted drinking water regulations identical-in-substance to those adopted by the United States Environmental Protection Agency (USEPA).

On April 19, 2012, in RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2011 through June 30, 2011) (R12-7), the Board adopted hazardous waste regulations identical-in-substance to those adopted by USEPA.

On April 19, 2012, in Procedural Rules for Review of Petitions for Temporary Landfill Ban Waivers Under Section 95 of the Electronic Products Recycling and Reuse Act: New 35 Ill. Adm. Code 106, Subpart J (R12-21), the Board adopted a second-notice opinion and order proposing new procedural rules applicable to petitions for a temporary waiver of the covered electronic device (CED) landfill ban under Section 95 of the Electronic Products Recycling and Reuse Act (EPRRA). See 36 Ill. Reg. 2469 (Feb. 17, 2012).

On April 19, 2012, in Updates to the Definition of "Pollution Control Facility" at Section 101.202 of the Board's Procedural Rules to Reflect Recent Public Acts (R12-22), the Board adopted a second-notice opinion and order proposing amendments to the definition of "pollution control facility" in its procedural rules to make the definition consistent with recent Public Acts amending the statutory definition. See 36 Ill. Reg. 2444 (Feb. 17, 2012).

On April 19, 2012, in Gasoline Volatility Standards and Motor Vehicle Refinishing; Proposed Amendments to 35 Ill. Adm. Code Parts 211, 215, 218, and 219 (R12-24), the Board accepted for hearing the Agency's rulemaking proposal filed on April 2, 2012.

Please visit our website (www.ipcb.state.il.us) for more information on the rulemakings described above, as well as information on our docket of contested cases.



Sincerely,

A handwritten signature in dark ink that reads "Thomas Holbrook". The signature is written in a cursive style with a large initial "T".

Thomas Holbrook
Chairman

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Rulemaking Update

Board Adopted First-Notice Proposal to Add Indoor Inhalation Pathway to the Tiered Approach to Corrective Action Objectives (TACO) Rules, R11-9

The Board, on April 19, 2012, adopted a first-notice opinion and order in the rulemaking docketed as Tiered Approach to Corrective Action Objectives (TACO) (Indoor Inhalation): Amendments to 35 Ill. Adm. Code 742, R11-9. On November 9, 2010, the Illinois Environmental Protection Agency (IEPA) filed the proposal to amend the Board's TACO rules. The Board held two public hearings in this rulemaking: one in Springfield and the other in Chicago. At first notice, the Board adopted the amendments proposed or agreed to by IEPA, with minor clarifying changes as explained below.

In its first notice opinion and order analyzing the hearing testimony and public comment received, the Board stated that, since 1997, the TACO rules have provided procedures for developing remediation objectives based upon risks posed to human health by environmental conditions at a variety of sites. The first-notice amendments include the addition of a new exposure route under TACO: the indoor inhalation exposure route. To protect building occupants, this exposure route addresses the potential for vapors to migrate into buildings from underlying volatile chemicals in soil or groundwater, a process commonly known as "vapor intrusion" or "VI."

The Board also proposed adding 13 chemicals to the TACO tables based upon the Board's pending rulemaking on groundwater quality standards, Proposed Amendments to Groundwater Quality Standards (35 Ill. Adm. Code 620), R08-18. Further, the first-notice amendments to TACO update physical and chemical parameters and revise toxicity values in accordance with the new United States Environmental Protection Agency hierarchy for selecting human health toxicity values.

In addition, the Board proposes requiring that IEPA be notified if an indoor inhalation building control technology at a school is rendered inoperable. Finally, the amendments to TACO will become effective on a date certain 60 days after their final adoption.

Publication of the proposed first-notice amendments in the *Illinois Register* will begin a 45-day public comment period, during which anyone may file a public comment with the Board. The Board encourages persons to file public comments on these proposed amendments. The docket number for this rulemaking, R11-9, should be indicated on the public comment.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.

In addition, public comments may be filed electronically through COOL at www.ipcb.state.il.us. Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

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 from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information, contact Richard McGill at (312)-814-6983 or email at mcgillr@ipcb.state.il.us.

Board Adopts Rules Identical in Substance Rules in In the Matter of SDWA Update, USEPA Amendments (January 1, 2011 through June 30, 2012), R12-4

The Board, on April 19, 2012, adopted amendments to the Illinois regulations that are "identical in substance" to drinking water regulations adopted by the United States Environmental Protection Agency (USEPA). The rulemaking is docketed as In the Matter of SDWA Update, USEPA Amendments (January 1, 2011 through June 30, 2011), R12-4.

A single USEPA action occurred in the identical-in-substance update period of January 1, 2011 through June 30, 2011. That USEPA action was the June 24, 2011 approval of alternative equivalent analytical methods for monitoring compliance with water quality parameters required for drinking water. The rulemaking adopts the USEPA approved alternative testing methods for use in demonstrating compliance with the drinking water standards. USEPA added eleven alternative methods for analyzing various inorganic and organic chemical parameters and one radionuclide. USEPA included corrections to the listings for two earlier-approved alternative methods.

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 from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Michael J. McCambridge at 312-814-6924 or email at mccamb@ipcb.state.il.us.

Board Adopts Rules Identical in Substance Rules in In the Matter of: RCRA Subtitle C Update, USEPA Amendments (January 1, 2011 through June 30, 2011), R12-7

On April 19, 2012, the Board adopted amendments that update the Illinois hazardous waste regulations to include amendments adopted by the United States Environmental Protection Agency (USEPA) during the time period that embraces the first half of calendar year 2011. In the Matter of: RCRA Subtitle C Update, USEPA Amendments (January 1, 2011 through June 30, 2011), R12-7. During this time USEPA amended the federal land disposal restrictions relating to carbamate wastes on June 13, 2011 and the hazardous waste manifest printing requirements on June 22, 2011. The Board amended its rules accordingly.

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 from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Michael J. McCambridge at 312-814-6924 or email at mccamb@ipcb.state.il.us.

Board Adopts Second Notice Proposal for New Procedural Rules for Temporary Waiver of Legislative Landfill Ban for Electronic Devices, R12-21

On April 19, 2012, the Board adopted a second notice opinion and order for proposed new procedural rules for petitions filed with the Board for temporary waivers of the landfill ban under Section 95 of the Electronic Products Recycling and Reuse Act (EPRRA). The second notice proposal is identical to the first notice one, as no public comments were received. The rulemaking is docketed as In the Matter of: Procedural Rules for Review of Petitions for Temporary Landfill Ban Waivers Under Section 95 of the Electronic Products Recycling and Reuse Act. New 35 Ill. Adm. Code 106.Subpart J, R12-21.

The Joint Committee on Administrative Rules has scheduled its review of these rules under the Administrative Procedure Act (5 ILCS 5/1 et seq.) for May 15, 2012.

The General Assembly first adopted EPRRA in 2008. In 2011, the General Assembly enacted amendments including a revised definition of "covered electronic device" (CED) and a revised landfill ban. Section 95(e) of

EPRRA addresses issues including contents of a petition for a temporary landfill ban waiver, criteria for Board consideration of a petition, the Board's decision deadline, appeal of Board orders denying temporary landfill ban waivers, and implementation of waivers. The proposed new 35 Ill. Adm. Code 106.Subpart J implements these provisions and follows the general format of other subparts of Part 106.

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 from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6]. The Clerk of the Board's address is Pollution Control 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 Adopts Second Notice Proposal for Procedural Rule Update of Definition of Pollution Control Facility, R12-22

On April 19, 2012, the Board adopted a second-notice opinion and order for a proposal to amend the definition of "pollution control facility" in Section 101.202 of its procedural rules. The second notice proposal is identical to the first notice one, as no public comments were received. The proposal intends only to make the definition consistent with recent Public Acts amending it. The rulemaking is docketed as In the Matter of: Updates to the Definition of "Pollution Control Facility" at Section 101.202 of the Board's Procedural Rules to Reflect Recent Public Acts, R12-22. The Joint Committee on Administrative Rules has scheduled its review of these rules under the Administrative Procedure Act (5 ILCS 5/1 et seq.) for May 15, 2012.

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 from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6]. The Clerk of the Board's address is Pollution Control 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 Adopts First-Notice Opinion and Order Concerning IEPA Proposal for Repeal of Illinois' Rules for Gasoline Volatility, and Amendment of Motor Vehicle Refinishing Rules R12-24

The Board, on April 19, 2012, adopted a first-notice opinion and order in response to an April 2, 2012 rulemaking proposal filed by the Illinois Environmental Protection Agency (IEPA) and docketed as In the Matter of: Gasoline Volatility Standards and Motor Vehicle Refinishing, Proposed Amendments to 35 Ill. Adm. Code Parts 211, 215, 218, and 219, R12-24. In so doing, the Board made no comment on the merits of the proposal.

The proposal has two prongs. First, it would repeal the state gasoline volatility standards, codified at 35 Ill. Adm. Code 215.585 and 219.585, since these have been replaced by federal standards. The repeal includes state standards in ozone attainment areas, as well as in the Chicago and Metro-East non-attainment areas (respectively, 35 Ill. Adm. Code 215.585 and 35 Ill. Adm. Code 219.585). All of these standards have "essentially been superseded by Illinois' participation in the Federal reformulated gasoline (RFG) program." Various clean-up amendments are also proposed, as necessitated by the proposed repeal.

Second, the proposal would also impact motor vehicle refinishing operations by allowing alternative use, in spray coating applications, of a High Volume Low Pressure (HVLP) spray gun for which USEPA has given written approval, and repeal of a state registration program that overlaps with the federal program.

Publication of these proposed amendments in the *Illinois Register* will begin a 45-day public comment period, during which anyone may file a public comment with the Board. The Board encourages persons to file public comments on these proposed amendments. The docket number for this rulemaking, R12-24, should be indicated on the public comment. Additionally, the Board will schedule two public hearings on the proposal.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.

In addition, public comments may be filed electronically through COOL at www.ipcb.state.il.us. Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

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 from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6]. For more information contact Kathleen Crowley at 312-814-6929 or email at crowlek@ipcb.state.il.us.

Board Actions

April 5, 2012

Chicago, Illinois

Adjusted Standards

AS 11-1	<u>In the Matter of: Petition of Greif Packaging, LLC for an Adjusted Standard from 35 Ill. Adm. Code Part 218. Subpart TT</u> – The Board granted an adjusted standard, subject to conditions, for petitioners fiber drum manufacturing facility located at 5 S 220 Frontenac Road in Naperville, DuPage County.	5-0 Air
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Administrative Citations

AC 10-21	<u>IEPA v. David Charles Bettis</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$386.50 and a civil penalty of \$3,000. This order follows the Board's interim order of February 16, 2012, which found that this respondent had violated Sections 21(p) (1) and (3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (3) (2010)).	5-0
AC 11-13	<u>IEPA v. Ray Newingham</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$315.00 and a civil penalty of \$3,000. This order follows the Board's interim order of February 16, 2012, which found that this respondent had violated Sections 21(p) (1) and (7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (7) (2010)).	5-0
AC 12-35	<u>IEPA v. Brian S. Mullins</u> – The Board granted complainant's motion to voluntarily dismiss the administrative citation.	5-0

Adjudicatory Cases

PCB 97-193	<u>People of the State of Illinois v. Community Landfill Company, Inc.</u>	5-0
PCB 04-207 (cons.)	<u>People of the State of Illinois v. Edward Pruim and Robert Pruim</u> – On remand from the Third District Appellate Court, the Board ordered Community Landfill Corporation (CLC), individually, to pay a civil penalty of twenty five thousand dollars (\$25,000). The Board ordered CLC and Edward Pruim and Robert Pruim to pay a civil penalty of \$225,000. The Board previously found in its October 3, 2002, April 5, 2001 and August 20, 2009 orders that respondents had violated numerous sections of the Environmental Protection Act and the Board's regulations. <i>See</i> <u>People v. Community Landfill Company, Inc.</u> , PCB 97-193 (Apr. 5, 2001), <u>People v. Community Landfill Company, Inc.</u> , PCB 97-193 (Oct. 3, 2002), and <u>People v. Community Landfill Co., Inc. and the Pruiims</u> , PCB 97-193, 04-207 (consol.) (Aug. 20, 2009).	L-E
PCB 06-81	<u>People of the State of Illinois v. Briggs Industries, Inc.</u> – Upon receipt of a	5-0

	proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land and water enforcement action involving a Crawford County facility, the Board ordered publication of the required newspaper notice.	L, W-E
PCB 09-66	<u>Elmhurst Memorial Healthcare and Elmhurst Memorial Hospital v. Chevron U.S.A., Inc. and Texaco, Inc.</u> – The Board granted complainant’s motion to voluntarily dismiss this land enforcement action involving a DuPage County facility.	5-0 L-E, Citizens
PCB 11-58	<u>People of the State of Illinois v. Zachary Isaac d/b/a Nu Shine Car Wash and Samuel Johnson</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) (2010)), accepted a stipulation and settlement agreement as to Samuel Johnson only, ordering the respondent to pay a total civil penalty of \$4,000.00, and to cease and desist from further violations.	5-0 W-E
PCB 11-74	<u>People of the State of Illinois v. Adolf M. Lo and Renee C. Lo d/b/a Lo Farms</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air and water enforcement action involving a Champaign County facility, the Board ordered publication of the required newspaper notice.	5-0 A,W-E
PCB 11-105	<u>Peopl of the State of Illinois v. Kolb-Lena Bresse Bleu, Inc., Kolb-Lena, Inc. and Zausner Foods Corp.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Stephenson County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
PCB 12-27	<u>People of the State of Illinois v. Industrial Enclosure Corporation</u> – In this land enforcement action concerning a Kane 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$7,500.00, and to cease and desist from further violations.	5-0 L-E
PCB 12-101	<u>ConocoPhillips Company v. IEPA</u> – The Board granted petitioner’s motion for stay of contested conditions	3-0 P-A, NPDES Burke abstained Holbrook abstained
PCB 12-120	<u>People of the State of Illinois v. S. H. Bell Co., Inc.</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a facility located in Cook County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E

**April 19, 2012
Springfield and Chicago, Illinois**

Rulemakings

- | | | |
|----------------|--|--------------------------------------|
| R 11-9 | <u>In the Matter of: Tiered Approach to Corrective Action Objectives (TACO) (Indoor Inhalation): Amendments to 35 Ill. Adm. Code 742</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s land pollution control regulations. | 4-0
Air
Burke
abstaine
d |
| R 12-4 | <u>SDWA Update, USEPA Amendments (January 1, 2011 through June 30, 2011)</u> – The Board adopted a final opinion and order in this “identical-in-substance” rulemaking which amends the Board’s drinking water regulations. | 5-0
Water |
| R 12-7 | <u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2011 through June 30, 2011)</u> – The Board adopted a final opinion and order in this “identical-in-substance” rulemaking which amends the Board’s hazardous waste regulations. | 5-0
Land |
| R 12-21 | <u>In the Matter of: Procedural Rules for Review of Petitions for Temporary Landfill Ban Waivers Under Section 95 of the Electronic Products Recycling and Reuse Act: New 35 Ill. Adm. Code 106, Subpart J</u> – The Board adopted a second notice opinion and order in this rulemaking proposal to amend the Board’s procedural rules. | 5-0
Procedu
ral |
| R 12-22 | <u>In the Matter of: Updates to the Definition of "Pollution Control Facility" at Section 101.202 of the Board's Procedural Rules to Reflect Recent Public Acts</u> – The Board adopted a second notice opinion and order in this rulemaking proposal to amend the Board’s procedural rules. | 5-0
Procedu
ral |
| R 12-24 | <u>In the Matter of: Gasoline Volatility Standards and Motor Vehicle Refinishing; Proposed Amendments to 35 Ill. Adm. Code Parts 211, 215, 218, and 219</u> – The Board accepted for hearing the Illinois Environmental Protection Agency’s (IEPA) April 2, 2012 proposal to amend the Board’s air pollution control regulations. The Board granted the IEPA’s motion for relief from certain copying requirements. The Board adopted a first notice opinion and order in this rulemaking proposal, without comment on the merits. | 5-0
Air |

Administrative Citations

- | | | |
|-----------------|--|-----|
| AC 10-30 | <u>County of Jackson v. Frances Klink</u> – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), 21(p)(3), 21(p)(7) (2010)) and assessing a penalty of \$4,500. The Board ordered the Clerk of the Board and the Illinois Environmental Protection Agency to file by May 21, 2012, a statement of hearing costs, supported by affidavit, with service on respondent. Respondent may respond to the cost statement within 21 days of service. | 5-0 |
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Adjudicatory Cases

- PCB 11-25** Estate of Gerald D. Slightom v. IEPA – The Board denied the IEPA’s motions requesting a “finding or ripeness of a ruling for interlocutory appeal” and requesting a ruling on the IEPA’s motion for summary judgment. 5-0
UST Appeal
- PCB 12-20** Clean Construction & Recycling, LLC and G & E Eight Series, LLC v. IEPA – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal. 5-0
P-A, Land
- PCB 12-112** People of the State of Illinois v. Berteau-Lowell Plating Works, Inc – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice. 5-0
A-E
- PCB 12-119** People of the State of Illinois v. Evergreen FS, Inc., – In this land 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$11,000.00, and to cease and desist from further violations. Respondent also agreed to pay an additional \$1,206.33 for the value of the fish killed and expenses incurred by the Illinois Department of Natural Resources in investigating the fish kill. 5-0
L-E

New Cases

April 5, 2012 Board Meeting

12-120 People of the State of Illinois v. S. H. Bell Co., Inc. – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement, and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a facility located in Cook County facility, the Board ordered publication of the required newspaper notice.

AC 12-32 IEPA v. Best One Tire & Service of Fairfield, Inc. and Rogers & Associates – The Board accepted an administrative citation against these Wayne County respondents.

AC 12-33 IEPA v. Shapiro Brothers of Illinois, Inc. d/b/a Milano Metals and Recycling – The Board accepted an administrative citation against these Jefferson County respondents.

AC 12-34 IEPA v. David N. Lutz – The Board accepted an administrative citation against this Shelby County respondent.

AC 12-35 IEPA v. Brian S. Mullins – The Board granted complainant’s motion to voluntarily dismiss the administrative citation.

April 19, 2012 Board Meeting

12-121 Midwest Generation, LLC - Waukegan Generating Station v. IEPA – No action taken.

AC 12-36 IEPA v. Mark H. & Linda A. Hagen – The Board accepted an administrative citation against these Jersey County respondents.

AC 12-37 IEPA v. William Bryant – The Board accepted an administrative citation against this Champaign County respondent.

AC 12-38 IEPA v. Funk Builders, Inc. – The Board accepted an administrative citation against this Woodford County respondent.

AC 12-39 IEPA v. CMH Homes, Inc. and David R. Moser – The Board accepted an administrative citation against these Jefferson County respondents.

AC 12-40 IEPA v. Michael Brooks – The Board accepted an administrative citation against this Ford County respondent.

AC 12-41 IEPA v. Louis K. Niemeyer – The Board accepted an administrative citation against this Coles County respondent.

AC 12-42 IEPA v. John K. Croslow (IEPA File No. 80-12-AC) – The Board accepted an administrative citation against this Lawrence County respondent.

AC 12-43 IEPA v. John K. Croslow (IEPA File No. 81-12-AC) – The Board accepted an administrative citation against this Lawrence County respondent.

AC 12-44 IEPA v. William C. Hagerman – The Board accepted an administrative citation against this Logan County respondent.

AC 12-45 IEPA v. Grayboy Cycle Center, Inc. – The Board accepted an administrative citation against this Peoria County respondent.

AC 12-46 IEPA v. Hughes Tire & Battery Company (IEPA File No. 91-12-AC) – The Board accepted an administrative citation against this Rock Island County respondent.

AC 12-47 IEPA v. Hughes Tire & Battery Company (IEPA File No. 92-12-AC) – The Board accepted an administrative citation against this Rock Island County respondent.

AS 12-3 Petition of Midway RACs, LLC for Adjusted Standard from 35 Ill. Adm. Code 218.586 – No action taken.

R12-24 In the Matter of: Gasoline Volatility Standards and Motor Vehicle Refinishing; Proposed Amendments to 35 Ill. Adm. Code Parts 211, 215, 218, and 219 – The Board accepted for hearing the Illinois Environmental Protection Agency's (IEPA) April 2, 2012 proposal to amend the Board's air pollution control regulations. The Board granted the IEPA's motion for relief from certain copying requirements. The Board adopted a first notice opinion and order in this rulemaking proposal, without comment on the merits.

Provisional Variance

IEPA 12-11 Exelon Generation Company L.L.C Quad Cities Nuclear Power Station v. Illinois Environmental Protection Agency— On March 21, 2012, the Illinois Environmental Protection Agency granted Exelon Generation Company, L.L.C's (Exelon) request for a provisional variance through March 31, 2012 for its Quad cities Nuclear Power Station (Power Station). The provisional variance allows Exelon to exceed the maximum temperature limit in Special Condition 6B of NPDES Permit IL0005037 by no more than 5 degrees (62 degrees for March), or two degrees above ambient river temperature, whichever is greater. The Power Station is a nuclear-fueled steam electric generating facility located near Cordova, Illinois, on the Mississippi River. Exelon requested the provisional variance because Illinois is experiencing record-breaking warm weather for this spring, and the Power Station has exhausted its excursion hours.

IEPA 12-12 Exelon Generation Company, LLC Braidwood Nuclear Power Station v. Illinois Environmental Protection Agency -- The Illinois Environmental Protection Agency granted Exelon Generation Company, LLC's March 21, 2012 request provisional variance from the effluent thermal limits of 60 degrees Fahrenheit contained in NPDES Permit IL0048321 for its Braidwood Nuclear Power Station. Exelon requested the provisional variance

because of the unusually hot and dry weather resulted in intake temperatures of approximately 60 degrees Fahrenheit or above. The provisional variance from Special Condition 3B of NPDES Permit IL0048321 is effective through March 31, 2012.

IEPA 12-13 Ameren Energy – E.D. Edwards v. Illinois Environmental Protection Agency – The Illinois Environmental Protection Agency, on March 22, 2012, granted Ameren Energy’s request for a provisional variance from the thermal limits in NPDES Permit IL0001970 to allow Ameren Edwards to continue operating through the unseasonable spring weather which resulted in high river temperatures combined with blow average river flows. Ameren Edwards Power Station is an electric generating station located in Bartonville, Peoria County on the Illinois River. The provisional variance from Special Condition 3 of NPDES Permit IL0001970 ends no later than March 31, 2012

IEPA 12-14 Exelon Generation Company, LLC Dresden Nuclear Power Station v. Illinois Environmental Protection Agency -- The Illinois Environmental Protection Agency granted Exelon Generation Company, LLC’s March 21, 2012 request provisional variance for its Dresden Nuclear Power Station. Exelon requested the provisional variance because intake temperatures of approximately 60 degrees Fahrenheit or above, which presented an undue hardship for Exelon to meet the effluent thermal limits of 60 degrees Fahrenheit contained in Special Condition 3B of NPDES Permit IL0002224. Dresden is a nuclear-fueled steam electric generating facility located at the confluence of the Des Plaines and Kankakee Rivers near Morris, Illinois. The provisional variance is effective through March 21, 2012, and ends on April 1, 2012.

Public Act 93-0152 (Senate Bill 222) amended Sections 35-37 of the Illinois Environmental Act (415 ILCS 5/5(b) (2010)) so that provisional variances are issued by the Illinois Environmental Protection Agency (IEPA). If the IEPA grants a provisional variance, then the IEPA must file a copy of its written decision with the Board. The Board must maintain copies of the provisional variances for public inspection. Copies of provisional variances can be obtained by contacting the Clerk’s Office at (312) 814-3620, or by visiting the Board’s Website at www.ipcb.state.il.us. If the IEPA denies a provisional variance request, then the applicant may initiate a proceeding with the Board for a full variance.

Calendar

5/3/2012 11:00 AM	Illinois Pollution Control Board Meeting		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
5/9/2012 10:30 AM	PCB 10-046	<u>Freedom Oil Company v. IEPA</u>	Pollution Control Board Hearing Room 1021 N. Grand Avenue East Springfield

<p>5/17/2012 2 11:00 AM</p>	<p>Illinois Pollution Control Board Meeting</p>		<p>Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield</p>
<p>6/7/2012 11:00 AM</p>	<p>Illinois Pollution Control Board Meeting</p>		<p>James R. Thompson Center 100 W. Randolph Street Chicago</p>
<p>6/21/2012 2 11:00 AM</p>	<p>Illinois Pollution Control Board Meeting</p>		<p>James R. Thompson Center 100 W. Randolph Street Chicago</p>
<p>6/26/2012 10:00 AM</p>	<p>PCB 10-046</p>	<p><u>ConocoPhillips Company v. IEPA</u></p>	<p>County Board Room 203 Madison County Administration Building 157 N. Main St. Edwardsville</p>
<p>7/12/2012 2 11:00 AM</p>	<p>Illinois Pollution Control Board Meeting</p>		<p>James R. Thompson Center 100 W. Randolph Street Chicago</p>
<p>7/26/2012 2 11:00 am</p>	<p>Illinois Pollution Control Board Meeting</p>		<p>James R. Thompson Center 100 W. Randolph Street Chicago</p>
<p>8/9/2012 11:00 am</p>	<p>Illinois Pollution Control Board Meeting</p>		<p>Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield</p>
<p>8/21/2012 2 10:00 AM</p>	<p>R12-23</p>	<p><u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u> (Continues until completed or through August 23, 2012)</p>	<p>IEPA Sangamo Room 1021 N. Grand Avenue East (North Entrance) Springfield</p>

<p>8/23/201 2 11:00 am</p>	<p>Illinois Pollution Control Board Meeting</p>	<p>Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield</p>
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Class III Groundwater Listing Notice

In accordance with 35 Ill. Adm. Code 620.230(b)(2), the Illinois Environmental Protection Agency (“Illinois EPA”) is publishing a proposed listing of dedicated nature preserves (“DNP”) to be classified as Class III: Special Resource Groundwater in the Environmental Register for a 45-day public comment period. The proposed list of DNPs include: Cotton Creek Marsh, George B. Fell, Gladstone Fen, Goose Lake Prairie, Spring Grove Fen and Trout Park, all dedicated nature preserves. This is the fifth Class III petition received by the Illinois EPA, and the third 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 publishing the following proposed listings:

Cotton Creek Marsh: Exhibit 1

Goose Lake Prairie: Exhibit 4

George B. Fell: Exhibit 2

Spring Grove Fen: Exhibit 5

Gladstone Fen: Exhibit 3

Trout Park: Exhibit 6

for a 45-day public comment period in the Environmental Register. Questions or comments regarding the proposal and hard copies of the petition can be obtained from the following:

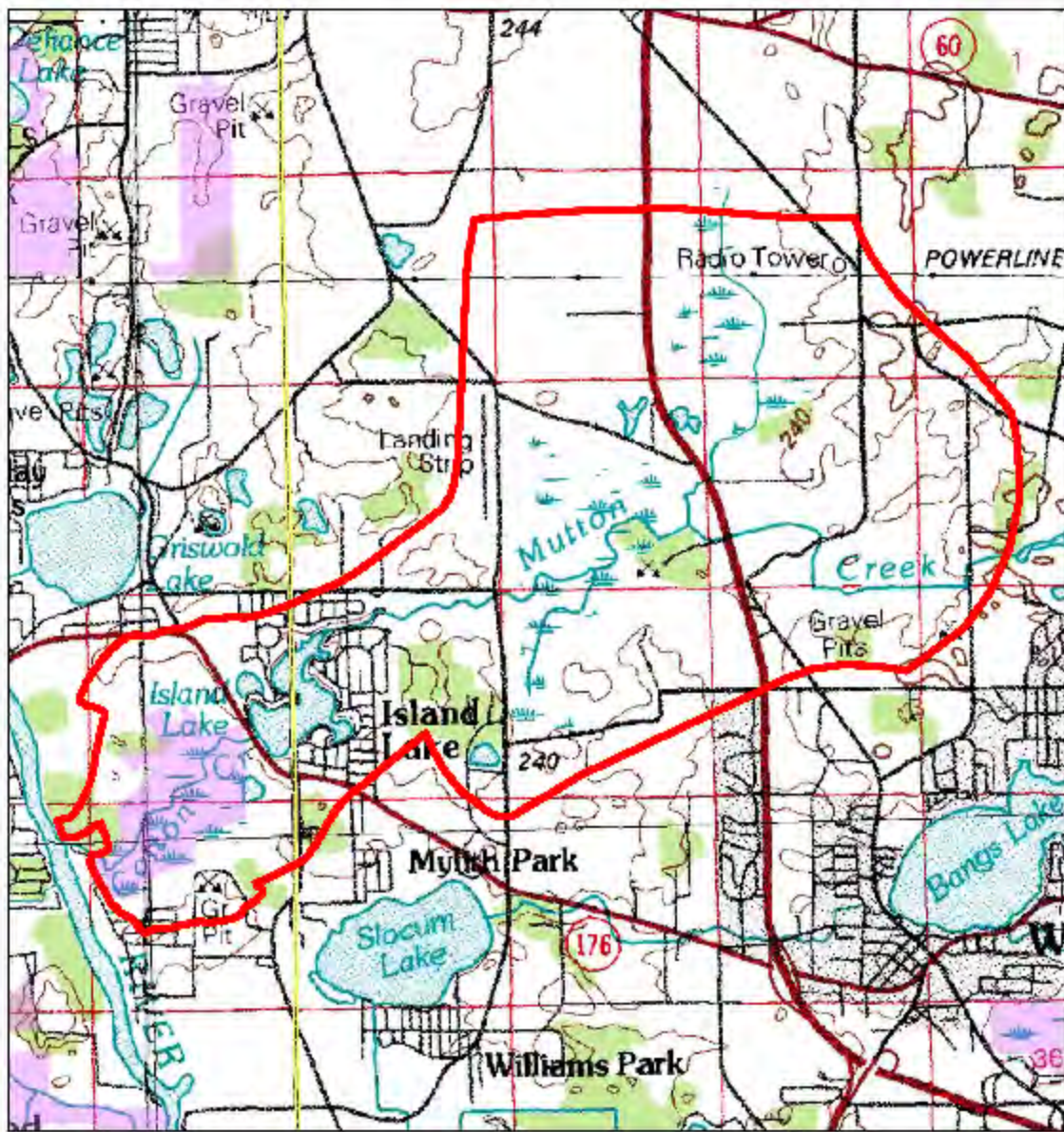
Lynn E. Dunaway, P.G.
Groundwater Section
Division of Public Water Supplies
Bureau of Water
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 785-4787
lynn.dunaway@illinois.gov

EXHIBIT 1




Cotton Creek Marsh

Class III Designation Proposal

Cotton Creek Marsh Class III Groundwater Area



Legend

-  Proposed Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries

0 0.25 0.5 1 1.5 2 Miles

Cotton Creek Marsh Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Cotton Creek, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Cotton Creek Marsh Nature Preserve is located on the eastern boundary of McHenry County, in the Village of Island Lake. Plant communities at this site include marsh, sedge meadow, low gradient creek, wet prairie, successional fields and fen, which depend on the specialized hydrogeologic conditions to deliver mineral-rich groundwater for their continued survival. The marsh is also home to two threatened plants and one threatened animal. Cotton Creek Marsh is a 249.1 acre tract of land owned by the McHenry County Conservation District, located in Sections 20 and 29, Township 44 North, Range 9 East, McHenry County. The groundwater contribution area (GCA), which is proposed for Class III designation, is 8.1 square miles (5,184 acres) surrounding the marsh and stretching to the northeast, extending into Lake County.

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.

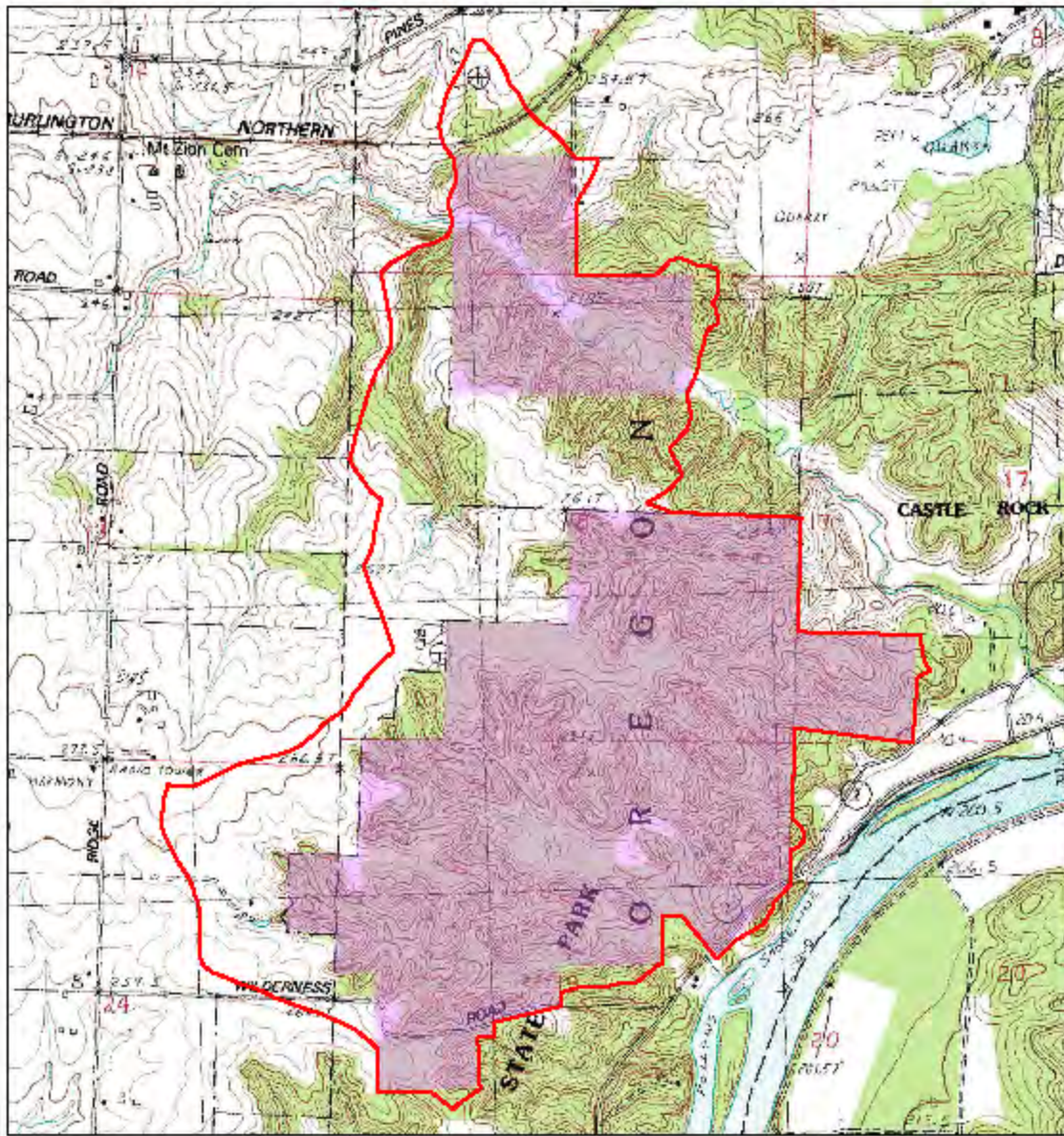
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

EXHIBIT 2

George B. Fell

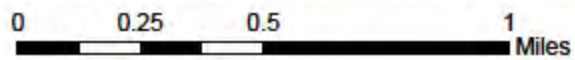
Class III Designation Proposal

George B. Fell Class III Groundwater Area



Legend

- Proposed Class III Groundwater Area
- Dedicated Nature Preserves
- County Boundaries



George B. Fell Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of George B. Fell, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. George B. Fell Nature Preserve is located in central Ogle County, Illinois, as a part of Castle Rock State Park, near the City of Oregon. The preserve is recognized as having the only remaining assemblage of relict boreal plants of their type left in Illinois, and is documented to support at least ten state-listed threatened or endangered plants and two state-threatened animals. The 709 acre nature preserve is divided into a northern portion and a southern portion, situated in Sections 7, 17, 18, and 19 in Township 23 North, Range 10 East and in Section 24 in Township 23 North, Range 9 East, of the Third Principal Meridian. The GCA for the preserve, which is proposed for Class III designation, totals 1.6 square miles (1,024 acres), within 0.5 and 0.25 miles around the edges of the northern and southern portions, respectively.

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.

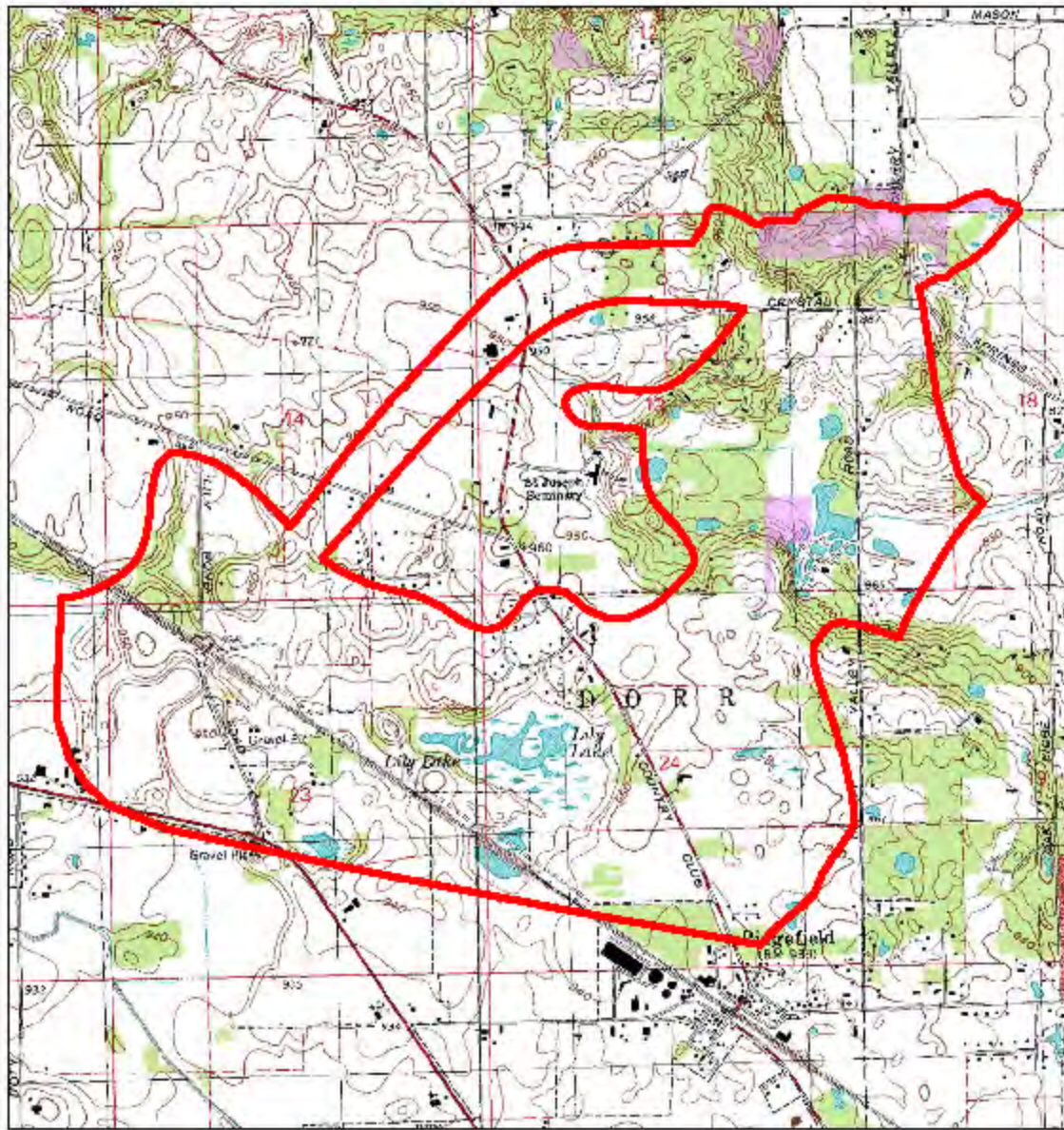
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

EXHIBIT 3




Gladstone Fen

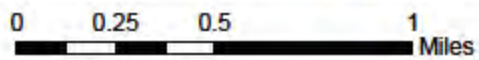
Class III Designation Proposal

Gladstone Fen Class III Groundwater Area



Legend

-  Proposed Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries



Gladstone Fen Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Gladstone Fen, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Gladstone Fen Nature Preserve is located on an 11.8 acre tract located within and adjacent to a 38 acre tract included in the Illinois Natural Areas Inventory (INAI) in east central McHenry County, near the Village of Bull Valley. The sensitive ecological communities include fen, sedge meadow, prairie and oak savanna. Both the fen and sedge meadow rely on naturally mineralized groundwater to support their biological communities. The site is also documented to support two state-threatened plants. Jointly owned by Lorna and Evan Gladstone and the McHenry County Conservation District, Gladstone Fen and the INAI form an interdependent area that consists of 49.8 acres positioned in Section 18, Township 44 North, Range 8 East, of the Third Principal Meridian. The GCA, which is proposed for Class III designation, extends southwest of the preserve, covering 2.64 square miles (1,690 acres).

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

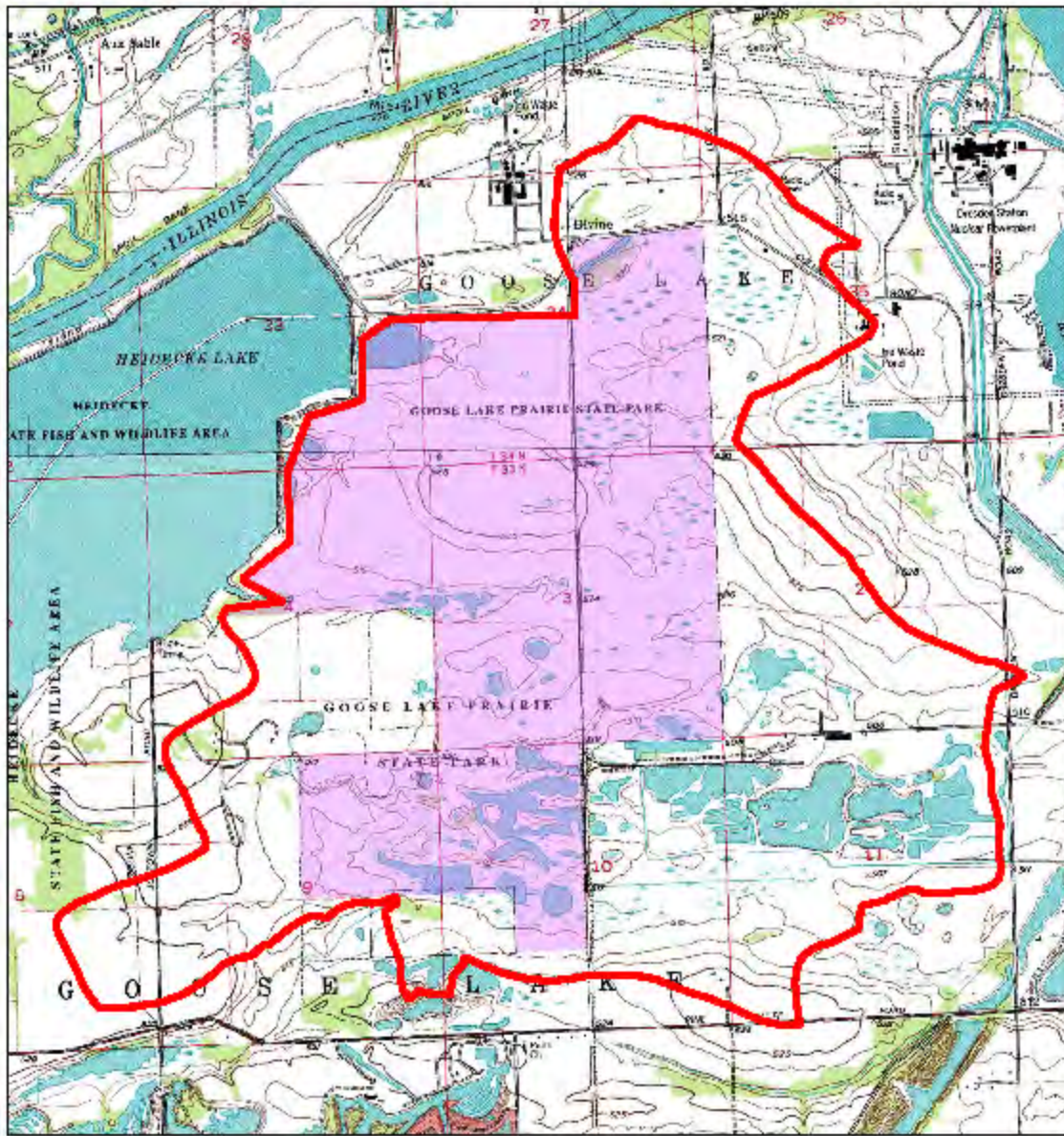
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

EXHIBIT 4




Goose Lake Prairie

Class III Designation Proposal

Goose Lake Prairie Class III Groundwater Area



Legend

-  Proposed Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries



Goose Lake Prairie Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Goose Lake Prairie, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Goose Lake Prairie Nature Preserve is located on 1,628 acres in Sections 3, 4, 9, and 10 in Township 33 North, Range 8 East and portions of Sections 33 and 34 in Township 34 North, Range 8 East, Grundy County, on property owned by the Illinois Department of Natural Resources. Goose Lake Prairie represents the largest remnant prairie in Illinois. Fifteen species of State threatened and State endangered species survive in the prairie or use it for nesting. Included among the rare animals are two species of moths. One species had never before been classified and named. The other species was thought to be extinct until it was rediscovered at Goose Lake Prairie in 1995. The groundwater at the site is important to this unique community, particularly the wet prairie areas. The GCA for Goose Lake Prairie, which is proposed for Class III designation, extends primarily to the south of the nature preserve and encompasses 5.7 square miles (3,648 acres).

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.

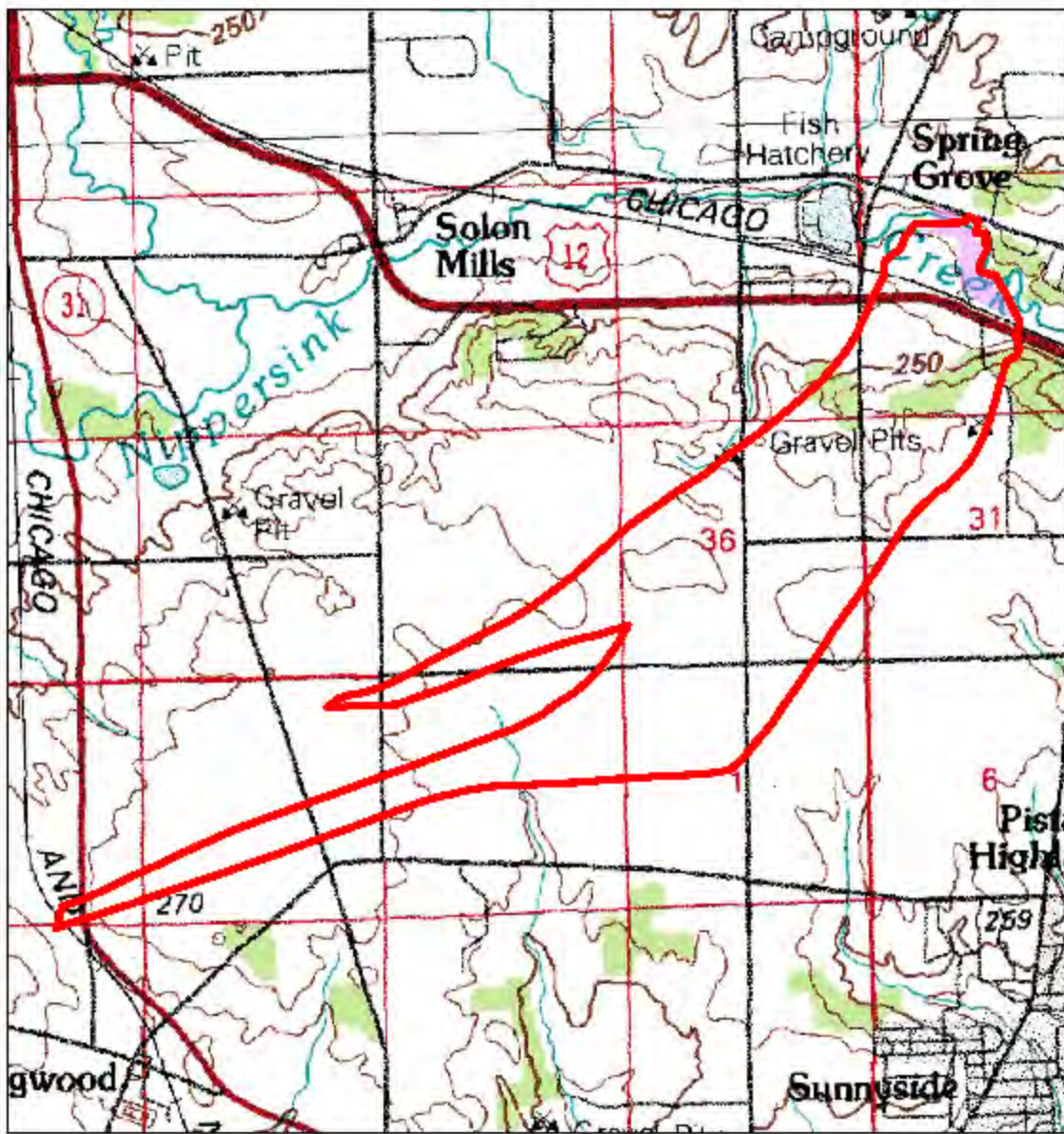
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

EXHIBIT 5




Spring Grove Fen

Class III Designation Proposal

Spring Grove Fen Class III Groundwater Area



Legend

-  Proposed Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries

0 0.25 0.5 1 1.5 2 Miles

Spring Grove Fen Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Spring Grove Fen, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Spring Grove Fen Nature Preserve is located on a series of glacial terraces along Nippersink Creek, southeast of Spring Grove. The 33.4 acre parcel is owned by the McHenry County Conservation District and is in Section 30, Township 46 North, Range 9 East, McHenry County. The mineral rich groundwater discharging on the nature preserve contributes to the perpetuation of high quality graminoid fen and very high quality sedge meadow communities. The nature preserve is known to harbor one State endangered plant, one State threatened plant and one State threatened animal. The GCA for Spring Grove Fen Nature Preserve, which is proposed for Class III designation, is 2.4 square miles (1,550 acres) that extends to the southwest of the preserve.

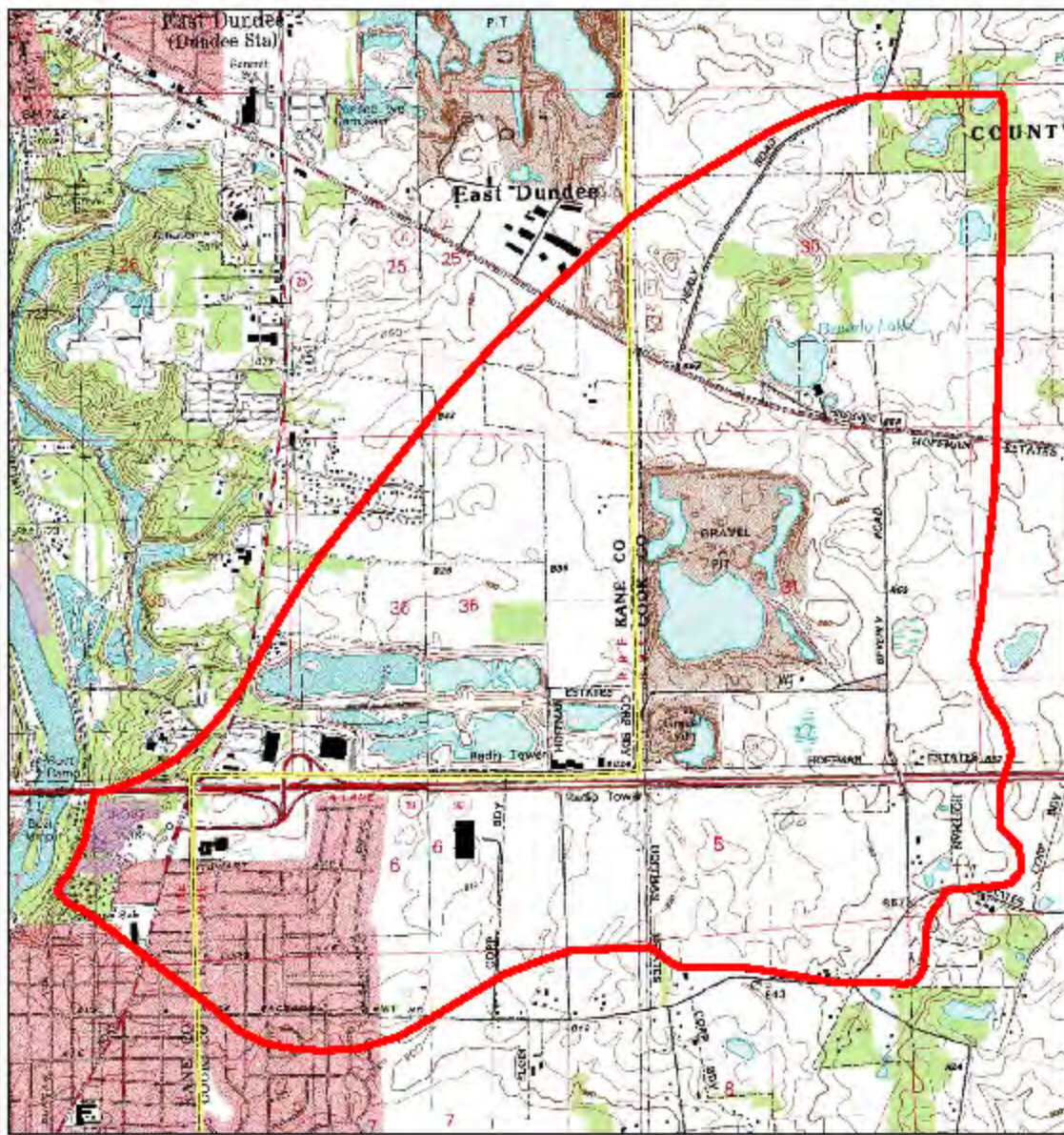
Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water 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 6

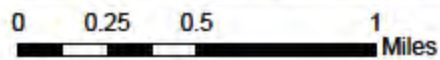
Trout Park Class III Designation Proposal

Trout Park Class III Groundwater Area



Legend

-  Proposed Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries



Trout Park Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Trout Park, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Trout Park Nature Preserve consists of two parcels totally 26.8 acres owned by the City of Elgin. The nature preserve is located in Section 1, Township 41 North, Range 8 East, Kane County. Of the total acreage contained in the nature preserve, 9.5 acres are composed of a rare, forested fen. Only 14.5 acres of forested fen are known to exist in Illinois. In addition to the rare plant life supported by the highly mineralized groundwater, which includes one State endangered and two State threatened plant species, the cool groundwater seeps and ravines in the nature preserve combine to form microclimates. The cooler than normal microclimates within the ravines allows plants and animals typically found further north, such as the Northern White Cedar, to survive in Illinois. The Northern White Cedar is typically found in Canada, northern Minnesota and east to the New England states. The GCA for Trout Park Nature Preserve, which is proposed for Class III designation, is 4.9 square miles (3,109 acres) that located to the northeast of the preserve and extends into Cook County.

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 Environmental Protection Agency
Division of Public Water Supplies
Restricted Status List - Public Water Supplies

APRIL 2012

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTIN G DATE</i>
ALTERNATIVE BEHAVIOR TREATMENT CENTER - IL0977189	2	INADEQUATE PRESSURE TANK	50	6/15/1988
ARLINGTON REHABILITATION LIVING CENTER - IL0971110	2	INADEQUATE HYDRO STORAGE	180	12/1/2003
AURORA COMMUNITY WATER ASSN - IL0895750	2	INADEQUATE PRESSURE TANK	150	12/16/1988
BAHL WATER CORP - IL0855200	1	INADEQUATE PRESSURE TANK	700	12/15/1993
BIGGSVILLE - IL0710050	5	EXCEEDANCES OF GROSS ALPHA AND COMBINED RADIUM MCL'S	350	4/1/2010
BRADLEY HEIGHTS SUBDIVISION - IL2015050	1	INADEQUATE PRESSURE TANK	192	9/13/1985
BRYANT - IL0570200	5	EXCEEDING THE MCLs FOR COMBINED RADIUM	267	10/1/2010
BUFFALO HOLLOW FARMS WATER ASSOCIATION - IL1430080	5	INADEQUATE PRESSURE STORAGE	44	6/16S/2008
CARROLL HEIGHTS UTILITIES COMPANY - IL0155200	1	INADEQUATE PRESSURE TANK	96	3/20/1981
CENTURY PINES APARTMENTS - IL0150020	1	INADEQUATE PRESSURE TANK	50	12/14/1990
COOKSVILLE - IL1130400	4	TTHM & HALOACIDIC ACIDS	300	9/15/2005
COYNE CNTR COOP - IL1615150	1	INADEQUATE PRESSURE TANK	150	12/15/1997
CROPSEY COMMUNITY WATER - IL1135150	4	INADEQUATE PRESSURE TANK	31	3/20/1981
CRYSTAL CLEAR WATER COMPANY - IL1115150	2	INADEQUATE GROUND STORAGE AND PRESSURE TANK	885	9/16/1988
D L WELL OWNERS ASSOCIATION - IL0975380	2	INADEQUATE PRESSURE TANK	141	3/18/1983
DE KALB UNIV DVL CORP - IL0375148	1	INADEQUATE PRESSURE TANK	1050	12/16/1992
*DELAND - IL1470200	4	EXCEEDING THE MAXIMUM CONTAMINANT LEVEL (MCL) FOR ARSENIC	475	3/16/2012
EAST END WATER ASSOCIATION - IL1610140	1	INADEQUATE STORAGE	40	3/15/2002

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTIN G DATE</i>
		CAPACITY		
EAST MORELAND WATER CORPORATION - IL1975640	2	INADEQUATE PRESSURE TANK	135	3/15/1996
EDELSTEIN WATER COOPERATIVE - IL1435150	5	EXCEEDING THE MCL's FOR COMBINED RADIUM & GROSS ALPHA PARTICLE ACTIVITY	125	10/1/2010
EVERGREEN VILLAGE SUBDIVISION - IL1615310	1	INADEQUATE PRESSURE TANK	130	3/20/1981
FAIR ACRES SUBDIVISION - IL1975680	2	INADEQUATE PRESSURE TANK	156	10/19/1981
FOREST LAKE ADDITION -LAKE CO PW IL0975500	2	INADEQUATE PRESSURE TANK	204	12/16/1983
FRWRD-SKYLINE PLANT - IL0895030	2	INADEQUATE PRESSURE TANK	700	9/19/1986
GREAT OAKS AND BEACON HILLS APARTMENTS - IL2015488	1	INADEQUATE PRESSURE TANK	2420	12/17/1982
HEATHERFIELD SUBDIVISION - IL0635150	2	INADEQUATE PRESSURE TANK	75	9/17/1982
HETTICK - IL1170500	5	TRIHALOMETHANE	182	6/15/2002
HIGHLAND SUBDIVISION - IL0895530	2	INADEQUATE PRESSURE TANK	60	9/16/1983
HILLVIEW SUBDIVISION - IL1975800	2	INADEQUATE PRESSURE TANK	100	3/15/1985
HOLY FAMILY VILLA - IL0310280	2	INADEQUATE PRESSURE TANK	200	9/15/1999
INGALLS PARK SUBDIVISION - IL1975880	2	INADEQUATE PRESSURE TANK	745	9/16/1983
LAKE LYNWOOD WATER SYSTEM - IL0735330	1	INADEQUATE PRESSURE TANK	75	8/31/1981
LARCHMONT SUBDIVISION - IL2015290	1	INADEQUATE PRESSURE TANK	64	6/17/1983
LARSON COURT APARTMENTS - IL1615728	1	INADEQUATE PRESSURE TANK	58	1/14/1982
LEGEND LAKES WATER ASSOCIATION - IL2015300	1	INADEQUATE PRESSURE TANK	283	3/14/1991
LIBERTY PARK HOMEOWNERS ASSOCIATION - IL0435600	2	INADEQUATE GROUND STORAGE CAPACITY	837	9/17/1992
LINDENWOOD WATER ASSOCIATION - IL1415300	1	INADEQUATE PRESSURE TANK	50	1/13/1982
LISBON NORTH, INC. - IL0631000	2	INADEQUATE PRESSURE TANK	30	9/14/1990
LONDON MILLS - IL0574620	5	INADEQUATE PRESSURE TANK	447	12/14/1984
LYNN WATER ASSOCIATION INC - IL0735100	1	INADEQUATE PRESSURE	100	3/15/1995

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTIN G DATE</i>
		TANK		
LYNNWOOD WATER CORPORATION - IL0995336	1	INADEQUATE PRESSURE TANK	110	3/18/1983
M C L W SYSTEM, INC. - IL1315150	1	INADEQUATE SOURCE	98	3/20/1981
MOUND PWD - IL1635050	6	INADEQUATE PLANT CAPACITY	2200	6/17/1996
NORTH HENDERSON - IL1310300	1	INADEQUATE HYDROPNEUMATIC STORAGE	184	7/1/2011
NORTHWEST BELMONT IMPRV ASSN - IL0435900	2	INADEQUATE PRESSURE TANK	78	9/29/1981
OAK RIDGE SD - IL2035300	1	INADEQUATE PRESSURE TANK	240	3/20/1981
OSCO MUTUAL WATER SUPPLY COMPANY, INC. - IL0735200	1	INADEQUATE PRESSURE TANK	115	12/15/1989
PANAMA - IL0054720	6	TTHM, DBP, INAD STORAGE	380	1/1/2006
POLO DR AND SADDLE RD SUBDIVISION - IL0437000	2	INADEQUATE PRESSURE TANK	90	12/17/1982
PORTS SULLIVAN LAKE OWNERS ASSOCIATION - IL0971160	2	INADEQUATE PRESSURE TANK	293	6/15/1999
PRAIRIE RIDGE ASSOCIATION - IL1115730	2	INADEQUATE PRESSURE TANK	130	10/1/2004
PRAIRIE ROAD PUMP ASSOCIATION- IL2015100	1	INADEQUATE STORAGE	150	1/1/2006
RIDGECREST NORTH SUBDIVISION - IL0635250	2	INADEQUATE PRESSURE TANK	60	9/16/1993
SHAWNITA TRC WATER ASSOCIATION - IL1977690	2	INADEQUATE PRESSURE TANK	125	9/17/1992
SILVIS HEIGHTS WATER CORP - IL1615750	1	INADEQUATE HYDRO STORAGE	1600	12/1/2003
SKYVIEW SBDV - IL0915526	2	INADEQUATE PRESSURE TANK	45	3/16/1990
STRATFORD WEST APARTMENTS - IL1095200	5	INADEQUATE PRESSURE TANK	39	12/17/1982
SUBURBAN HEIGHTS SUBDIVISION - IL1615800	1	INADEQUATE PRESSURE TANK	82	12/16/1983
SUNNY HILL ESTATES SUBDIVISION - IL0735300	1	INADEQUATE PRESSURE TANK	525	6/15/2000
SUNNYLAND SUBDIVISION - IL1977730	2	INADEQUATE PRESSURE TANK	350	9/16/1983
SWEDONA WATER ASSOCIATION - IL1315200	1	INADEQUATE PRESSURE TANK	157	6/15/1990
SYLVAN LAKE 1ST SUBDIVISION - IL0977100	2	INADEQUATE PRESSURE TANK	210	6/14/1991

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTIN G DATE</i>
TOWNERS SUBDIVISION - IL0977250	2	INADEQUATE PRESSURE TANK	210	1/14/1982
UTILITIES INC HOLIDAY HILLS - IL1115350	2	INADEQUATE PRESSURE TANK	729	9/16/1983
UTL INC-LAKE HOLIDAY - IL0995200	1	INAD SOURCE & TREATMENT PLT	5460	9/15/1998
UTL INC-NORTHERN HILLS UTLITIES COMPANY - IL1775050	1	INADEQUATE PRESSURE TANK	500	3/15/1996
UTL INC-WALK-UP WOODS WATER COMPANY - IL1115800	2	INADEQUATE PRESSURE TANK	654	12/17/1982
WIENEN ESTATES - IL0850030	1	INADEQUATE PRESSURE TANK	70	12/15/1997
WONDER LAKE WATER COMPANY - IL1115750	2	INADEQUATE PRESSURE TANK	1442	6/16/1994

WATER SYSTEMS REMOVED FROM PREVIOUS LIST

* DENOTES ADDED WATER SUPPLIES

DELAND – IL1470200

CHANGE TO NATURE OF PROBLEM

LIBERTY PARK HOMEOWNERS ASSOCIATION –

IL0435600

CRYSTAL CLEAR WATER COMPANY – IL1115150

Illinois Environmental Protection Agency
Division of Public Water Supplies
Critical Review List - Public Water Supplies

APRIL 2012

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTIN G DATE</i>
ANDALUSIA - IL1610050	1	INADEQUATE PRESSURE TANK	1050	12/1/2003
ANNA-JONESBORO WATER COMMISSION – IL1815050	7	LACKS EXISTING TREATMENT CAPACITY	36	7/1/2011
ANNA WATER COMMISSION – IL1810050	7	**	5750	7/1/2011
BEASON CHESTNUT PWD - IL1075150	5	INAD PLANT & SOURCE CAP	600	6/15/2004
CANTON – IL0570250	5	INSUFFICIENT TREATMENT CAPACITY	13932	3/15/2007
CEDARVILLE - IL1770050	1	EMERGENCY POWER	800	1/1/2006
COLLINSVILLE – IL1194280	6	INADEQUATE STORAGE	29500	1/1/2008
COLUMBIA - IL1330050	6	INADEQUATE PUMPING CAPACITY	8365	3/15/1998
EDWARDSVILLE – IL1190250	5	INSUFFICIENT PLANT CAPACITY TO HANDLE PEAK SYSTEM WATER DEMAND	24,900	9/16/2008
EFFINGHAM – IL0490250	4	INADEQUATE DISINFECTION	12384	7/1/2006
ELIZABETH - IL0850150	1	LOW SYSTEM PRESSURE	682	6/15/1999
EXETER-MERRITT WATER COOP - IL1710010	5	INADEQUATE PRESSURE TANK	428	10/1/2004
GALENA - IL0850200	1	LOW SYSTEM PRESSURE	3640	6/15/1999
GRIGGSVILLE – IL1490300	5	INADEQUATE TREATMENT PLANT CAPACITY	1259	10/1/2006
HAMEL - IL1190450	6	INADEQUATE STORAGE CAPACITY	650	1/1/2006
HOLIDAY SHORES SD - IL1195110	6	INADEQUATE STORAGE CAPACITY	3192	1/1/2006
IL AMERICAN-ALTON	6	APPROACHING WATER TREATMENT PLANT CAPACITY	51922	4/1/2009
IL AMERICAN-E ST. LOUIS - IL1635040	6	APPROACHING INADEQUATE STORAGE CAPACITY	155382	1/01/2011
JONESBORO PWS – IL1810250	7	**	1853	7/1/2011
JOY - IL1310100	1	LOW SYSTEM PRESSURE	373	6/15/1999

<i>SYSTEM NAME</i>	<i>EPA RGN</i>	<i>NATURE OF PROBLEM</i>	<i>POP SERVED</i>	<i>LISTIN G DATE</i>
LA SALLE - IL0990300	1	INAD PLANT & SOURCE CAPACITY	9700	11/1/2004
LACON - IL1230100	1	UNDERSIZED WATERMAINS	1979	1/1/2006
LICK CREEK PWD – IL1815100	7	**	1929	7/1/2011
MALDEN - IL0110550	1	UNDERSIZED WATERMAINS	370	1/1/2006
MARION - IL1990550	7	INADEQUATE SOURCE CAPACITY	14610	11/1/2001
MASON CITY - IL1250350	5	INADEQUATE STORAGE CAPACITY	2558	1/1/2006
MATHERSVILLE - IL1310200	1	INADEQUATE SYSTEM PRESSURE	793	9/13/2000
MC HENRY SHORES WATER COMPANY - IL1115020	2	LOW SYSTEM PRESSURE	1813	9/17/1992
O'FALLON – IL1631100	2	INADEQUATE STORAGE CAPACITY	43596	10/1/2006
SCALES MOUND - IL0850400	1	LOW SYSTEM PRESSURE	400	9/15/1997
SENECA - IL0991050	1	INADEQUATE PLANT CAPACITY AND UNDERSIZED WATER MAINS	2053	6/15/1999
SHAWNEE VALLEY PWD – IL1815550	7	**	952	7/1/2011
STOCKTON - IL0850450	1	LOW SYSTEM PRESSURE	1871	6/15/1984
SUMNER - IL1010300	7	LOW SYSTEM PRESSURE	1481	12/13/1985
UTL INC-LAKE MARIAN WATER CORPORATION - IL0895200	2	INAD PRES STORAGE & LOW SYS PRES	924	9/14/1984
WALNUT HILL - IL1210600	6	LOW SYSTEM PRESSURE	1470	6/14/1985
WATERLOO - IL1330300	6	INADEQUATE STORAGE	7614	10/1/2004
WITT – IL1350850	5	INADEQUATE TREATMENT CAPACITY	991	3/17/2008
WORDEN - IL1191200	6	INADEQUATE STORAGE CAPACITY	906	1/1/2006

WATER SYSTEMS REMOVED FROM PREVIOUS LIST

ELLIS GROVE – IL1570200

MARYVILLE – IL1190750

*** DENOTES ADDED WATER SUPPLIES**

**** THESE PUBLIC WATER SUPPLIES OBTAIN WATER FROM ANNA-JONESBORO WATER COMMISSION (IL1815050) WHICH LACKS EXISTING TREATMENT CAPACITY.**

Restricted Status/Critical Review

The Environmental Protection Act prohibits the Agency from issuing a construction permit that will cause or extend a violation. A construction permit to expand the distribution system cannot be granted when a water supply has a maximum contaminant level or treatment technique violation, an inadequate source of raw water supply, inadequate treatment plant capacity, finished water storage or distribution system pressure. A Restricted Status List is published quarterly in the Illinois Pollution Control Board Environmental Register to notify those persons considering expansion of a water supply distribution system of that status before large sums of money have been spent on items such as land acquisition, financing and engineering fees. A companion Critical Review List is published concurrently with the Restricted Status List and has the water supplies that are approaching a point where the supply could be placed on Restricted Status. A permit application from a supply on Critical Review will be examined carefully to ensure that the proposed construction will not cause a violation. Restricted Status and Critical Review are presented as a combined list with the status of the water supply denoted as either RS (Restricted Status) or CR (Critical Review). The current list reflects the status as of April 1, 2012. An asterisk, *, beside the water supply indicates public water supplies that have been added to the Restricted Status/Critical Review list since the previous publication.

Restricted Status List

The Restricted Status List was developed to give additional notification to officials of public water supplies which are in violation of 35 Ill. Adm. Code, Subtitle F: Public Water Supplies, Chapter I or the Illinois Environmental Protection Act.

The Restricted Status List will include all Public Water Supplies for which the Agency has information indicating a violation of any of the following requirements: Finished water quality requirements of 35 Ill. Adm. Code, Part 604, Subparts B and C; maintenance of adequate pressure on all parts of the distribution system under all conditions of demand; meeting raw water quantity requirements of 35 Ill. Adm. Code 604.502; or maintenance of treatment facilities capable of providing water "assuredly adequate in quantity" as required by Section 18 of the Illinois Environmental Protection Act.

A public water supply on the Restricted Status List will not be issued permits for water main extensions, except for certain limited situations, or unless the supply has been granted a variance from the Illinois Pollution Control Board for the violation, or from permit issuance requirements of Section 39 of the Act.

This list is continually being revised as new information becomes available, and therefore, specific inquiries as to the status of any public water supply should be directed to the Division of Public Water Supplies for final determination.

Critical Review List

The Critical Review List was developed to give additional notification to officials of public water supplies which may be close to being in violation of 35 Ill. Adm. Code, Subtitle F: Public Water Supplies, Chapter I or the Illinois Environmental Protection Act.

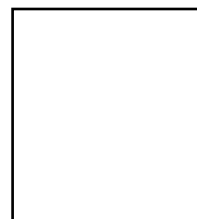
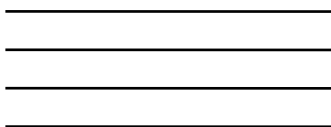
A supply will be placed on the Critical Review List when Agency records indicate that it is approaching any of the violations that would place it on the Restricted Status List.

This list is continually being revised as new information becomes available, and therefore, specific inquiries as to the status of any public water supply should be directed to the Division of Public Water Supplies for final determination.

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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Environmental Register

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The Environmental Register is a Publication of the Illinois Pollution Control Board

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Letter from the Chairman

During November, the Board received favorable decisions from the appellate courts and the Illinois Supreme Court. I have summarized the three cases below.

On November 8, 2011, the Second District Appellate Court affirmed the Board in the landfill siting appeal captioned Fox Moraine, LLC v. United City of Yorkville, City Council and Illinois Pollution Control Board, 2011 IL App (2d) 100017. In the decision under review, the Board affirmed the United City of Yorkville City Council's denial of Fox Moraine, LLC's application to site a landfill in Yorkville. *See* PCB 07-146 (Oct. 1, 2009). Fox Moraine appealed the Board's decision to the Second District. In short, the Second District affirmed the Board's findings that (1) Yorkville's proceedings on the siting application were fundamentally fair and (2) Yorkville's rulings that Fox Moraine failed to satisfy several of the Section 39.2(a) siting criteria were not against the manifest weight of the evidence.



On November 9, 2011, the First District Appellate Court granted the Board's motion to publish as a precedential opinion the court's order affirming a Board administrative citation decision. The case is captioned Jose Gonzalez & 1601-1759 East 130th Street, L.L.C. v. Illinois Pollution Control Board, No. 1-09-3021 (1st Dist.). In its decision, the First District agreed with the Board that a person may "cause or allow" the open dumping of waste even though the waste (1) was not placed on the site by the person and (2) existed on the site *before* the person acquired the site. In affirming liability based upon the site owner's failure to timely remove such so-called "preexisting" waste, the court adopted the Board's long-standing position on what is a recurring issue in administrative citation proceedings. The Board imposed \$12,000 in fixed civil penalties plus hearing costs on two respondents for their open dumping violations. *See* AC 06-39, 06-40, 06-41, 07-25 (consol.) (Mar. 19, 2009 & June 4, 2009). On September 30, 2011, the First District had affirmed the Board in a non-precedential Rule 23 order. With the grant of the Board's motion to publish, the court's decision, issued as an opinion on November 23, 2011 (2011 IL App (1st) 093021), can be cited as precedent.

On October 27, 2011, the Board prevailed before the Supreme Court of Illinois in Sierra Club et al. v. Illinois Pollution Control Board et al., 2011 IL 110882, resulting in dismissal of an appeal of a Board adjusted standard decision. In a 5-2 decision, the high court ruled that the appellants (Sierra Club and Peoria Families Against Toxic Waste (collectively, opposition groups)) lacked standing to seek judicial review of the Board's grant of an adjusted standard. The Supreme Court held that the grant of an adjusted standard is not a "rule or regulation promulgated by the Board," but instead an "adjudicatory determination." The latter generally is appealable only by a "party" to the Board proceeding. The opposition groups, which were non-party public commenters before the Board, never availed themselves of the opportunity to seek "party" status in the adjusted standard proceeding through intervention. The Supreme Court vacated the Third District Appellate Court's decision in which the Third District had found standing, but affirmed the Board decision on the merits. *See* Sierra Club et al. v. Illinois Pollution Control Board et al., 403 Ill. App. 3d 1012, 936 N.E.2d 670 (3rd Dist. 2010). The Board decision at issue was entered in RCRA Delisting Adjusted Standard Petition of Peoria Disposal Company, AS 08-10 (Jan. 8, 2009), in which the Board granted, subject to conditions, the petition of Peoria Disposal Company (PDC) for an adjusted standard to "delist" certain residue generated by PDC's treatment of electric arc furnace (EAF) dust from steel mills.

Sincerely,

A handwritten signature in black ink that reads "Thomas Holbrook". The signature is written in a cursive style.

Thomas Holbrook
Chairman

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Appellate Update

Second District Appellate Court Affirms Board Order Sustaining United City of Yorkville’s Denial of Siting Approval for New Landfill in Fox Moraine, LLC v. United City of Yorkville, City Council and Illinois Pollution Control Board, 2011 IL App (2d) 100017 (Nov. 8, 2011)(affirming Board in Fox Moraine, LLC v. United City of Yorkville, City Council: Kendall County, Intervenor, PCB 07-146 (Oct. 1, 2009))

On November 8, 2011, the Second District Appellate Court issued a 61-page precedential opinion affirming the Board in the landfill siting appeal captioned Fox Moraine, LLC v. United City of Yorkville, City Council and Illinois Pollution Control Board, 2011 IL App (2d) 100017 (Op.). In an 84-page opinion and order, the Board had affirmed the United City of Yorkville City Council's denial of Fox Moraine, LLC's application to site a landfill in Yorkville. Fox Moraine, LLC v. United City of Yorkville, City Council: Kendall County, Intervenor, PCB 07-146 (Oct. 1, 2009).

The Second District's decision was authored by Justice Bowman, with Justices Hutchinson and Zenoff concurring. In a separate order issued November 30, 2011, the Second District granted Fox Moraine an extension of time, until January 17, 2012, in which to file a petition for leave to appeal to the Illinois Supreme Court.

The court affirmed the Board's two overarching findings: (1) Yorkville's proceedings on the landfill siting application were fundamentally fair; and (2) Yorkville's rulings that Fox Moraine failed to satisfy certain siting criteria of Section 39.2(a) of the Environmental Protection Act (Act) (415 ILCS 5/39.2(a)) were not against the manifest weight of the evidence. However, the court did not agree with the Board's handling of the case in all respects.

The following summary of the Second District's opinion concentrates upon the court's legal conclusions, the most significant of which concern fundamental fairness.

BACKGROUND

Fox Moraine, LLC is owned in part by Donald Hamman, a major landowner in the Yorkville area. Op. at ¶ 3. Mr. Hamman sought to build a landfill in Kendall County, but when negotiations with the county faltered, Fox Moraine pursued annexation of the land so as to work instead with Yorkville. *Id.* On a small part of the land at issue, Mr. Hamman operates a "yard-waste facility," making him familiar to Yorkville residents. *Id.* (Whether Mr. Hamman's operation applies landscape waste at a proper "agronomic" rate has been and is being litigated before the Board. *See United City of Yorkville v. IEPA and Hamman Farms, PCB 08-95 (Aug. 7, 2008)* (dismissal for lack of jurisdiction over purported third-party appeal of IEPA decision to increase agronomic rate); United City of Yorkville v. Hamman Farms, PCB 08-96 (pending citizen enforcement action alleging air, land, and water pollution.)

Because of news reports, Yorkville residents were also aware of the proposed landfill. Op. at ¶ 3. During the annexation proceedings, members of the public began a "campaign" against the landfill, forming a group named "Friends of Greater Yorkville" or "FOGY." *Id.* The land was annexed and on December 1, 2006, Fox Moraine filed with Yorkville a landfill siting application under Section 39.2(a). Op. at ¶¶ 3, 4.

In March and April 2007, Yorkville held several hearings on Fox Moraine's application. Op. at ¶ 4. On May 24, 2007, the city council denied the siting application, finding that Fox Moraine did not meet criteria (i), (ii), (iii), (v), (vi), and (viii) of Section 39.2(a). *Id.* The city council also determined that Fox Moraine's "prior operating history"

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(the so-called “tenth criterion” of Section 39.2(a)) hurt the application. *Id.* After the hearings closed, but before the council’s deliberations and vote, Yorkville held an election that resulted in a new mayor (Burd) and three new council members (Plocher, Sutcliff, Werderich). *Id.* FOGY leaders, including Plocher and Werderich, worked on Burd’s mayoral campaign. Op. at ¶ 5. The new mayor and new council members allegedly campaigned on anti-landfill platforms. Op. at ¶¶ 6, 77. The new council members participated in the deliberations and the vote denying Fox Moraine’s application. Op. at ¶ 4.

Fox Moraine timely appealed to the Board, seeking review of the city council’s denial on the grounds that the proceedings were fundamentally unfair and the findings on the siting criteria were against the manifest weight of the evidence. Op. at ¶ 5.

FUNDAMENTAL FAIRNESS

Legal Framework

Section 40.1(a) of the Act provides that “the Board shall include in its consideration . . . the fundamental fairness of the procedures used by the county board or the governing body of the municipality in reaching its decision.” Op. at ¶ 57. The Second District observed that the Board is generally limited to the siting authority’s record, but that the Board may hear new evidence when considering the fundamental fairness of the proceedings because such evidence is often not contained in the local record. Op. at ¶ 58, citing Land and Lakes Co. v. PCB, 319 Ill. App. 3d 41, 48 (3rd Dist. 2000). The court applied the “clearly-erroneous standard” to the Board’s fundamental fairness decisions because whether the local proceedings were fundamentally fair is a “mixed question of law and fact.” Op. at ¶ 59, citing Peoria Disposal Co. v. PCB, 385 Ill. App. 3d 781, 796 (3rd Dist. 2008). The clearly-erroneous standard “lies between the deferential manifest-weight-of-the-evidence standard and the *de novo* standard.” *Id.*, citing Land and Lakes, 319 Ill. App. 3d at 48.

Attorney-Client Privilege

Fox Moraine argued that the city council considered a report, the “Roth Report,” which may have contained information outside of the record. Op. at ¶ 5. The Roth Report was prepared for Yorkville by attorney Michael Roth of Wildman Harrold. *Id.* Roth was retained as city attorney by the new mayor and asked to prepare the report to advise Yorkville on the landfill matter. Op. at ¶¶ 45, 64. In denying Fox Moraine’s motion to compel disclosure of the Roth Report, the Board determined that the report was protected by attorney-client privilege. Op. at ¶¶ 7, 8, 62. According to the court, the Board failed to address Fox Moraine’s argument that the Roth Report was not covered by attorney-client privilege. Op. at ¶ 64. The court ruled that when members of the city council discussed the Roth Report during open deliberations, they waived the attorney-client privilege. Op. at ¶¶ 64, 67-69. However, Fox Moraine did not request that the Board inspect the report *in camera* to determine if Roth’s recommendations were based upon extra-record evidence. Op. at ¶ 69. In the end, the council members stated the reasons behind their decisions, and the court believed that there was no evidence in the record suggesting that Roth’s advice was based upon evidence outside of the record. *Id.* Therefore, the court concluded that the Board’s denial of Fox Moraine’s motion to compel disclosure of the Roth Report on the ground that it was privileged was “harmless error.” Op. at ¶¶ 69, 119.

Deliberative Process Privilege

Next, relying upon People ex rel. Birkett v. City of Chicago, 184 Ill. 2d 521, 525 (1998) for the proposition that there is no “deliberative process privilege,” Fox Moraine argued that the Board erred by invoking this “nonexistent” privilege to deny Fox Moraine the opportunity to probe the council members’ bias. Op. at ¶ 70. The Illinois Supreme Court in Birkett acknowledged that the deliberative process privilege is widely recognized in federal courts to protect “certain classes of intra-agency communications offered in the course of governmental decision-making.” *Id.*, citing Birkett, 184 Ill. 2d at 526. However, the Second District continued, the Birkett court held that adoption of the privilege for municipalities should be left to the legislature in light of the competing policies raised by the privilege. *Id.*, citing Birkett, 184 Ill. 2d at 532. The Second District next analyzed Thomas v. Page, 361 Ill. App. 3d 484 (2nd Dist. 2005), which held that there is a limited but absolute judicial-deliberation privilege to protect against the disclosure of certain communications. Op. at ¶ 71, citing Thomas, 361 Ill. App. 3d at 489, 493-94. The Thomas court found Birkett inapplicable because it did not address the judiciary, which “as a co-equal branch of government, supreme within its own assigned area of constitutional duties, is being asked to exercise its inherent authority to protect the integrity of its own decision-making process.” *Id.*, quoting Thomas, 361 Ill. App. 3d at 491.

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The Second District was “inclined to agree with Fox Moraine” that the Birkett and Thomas holdings do not warrant extending the deliberative-process privilege to the city council. Op. at ¶ 72. However, the deliberative-process privilege recognized in Thomas “applies to discovery of certain types of communications or documents, not to testimony of the mental impressions of judges.” Op. at ¶ 73. Fox Moraine did not seek the production of documents. *Id.* Rather, Fox Moraine sought to have the council members “testify regarding their processes in reaching their decisions,” which, as Thomas noted, “is not allowable in well-settled law.” *Id.* Therefore, the Second District concluded that “we agree with the Board’s decision to bar inquiry into the council members’ mental impressions but note that the Board’s rationale invoking the deliberative process privilege under these facts is misplaced.” *Id.*

Bias

Fox Moraine argued that certain city council members were biased, causing them to prejudice the siting application, and that the Board failed to apply the proper standard to decide council member bias. Op. at ¶ 5. Initially, the court observed that a claim of disqualifying bias must be raised at the original proceeding, *i.e.*, at the city council. Op. at ¶ 75, citing EandE Hauling v. PCB, 107 Ill. 2d 33, 38-39 (1985). Fox Moraine maintained that the Board’s finding of forfeiture by Fox Moraine as to council members Werderich and Plocher was in error, because they were not seated until after the close of the public hearing. Op. at ¶ 75. The Board found that Fox Moraine’s arguments concerning these council members’ involvement in FOGY and their anti-landfill activities at council meetings predated the election and that Fox Moraine accordingly had knowledge of their potential bias prior to the council’s siting decision. Op. at ¶ 74. The court agreed with the Board that because Fox Moraine made no attempt to submit “a written motion immediately after the election, during the public commentary period or at the deliberations meeting,” the bias arguments were forfeited. Op. at ¶ 75.

As to the alleged bias of the newly-elected mayor Burd, according to Fox Moraine Burd colluded with anti-landfill proponents, and her mayoral campaign committee was staffed by FOGY founders. Op. at ¶¶ 5, 77. The court, however, could not see how any potential bias of Mayor Burd would affect Fox Moraine “when she had no vote in the matter.” Op. at ¶ 78. Fox Moraine also asserted that Mayor Burd, among other things, “hastened the vote to force a premature decision, denying the aldermen an opportunity to review the new materials.” Op. at ¶ 77. The court observed, however, that while numerous documents were filed on the last day of the public comment period, “fundamental fairness has been held to require only that the record be made available for review by the entire council prior to voting,” not that the council members actually review the materials in their entirety. Op. at ¶ 79, citing City of Rockford v. County of Winnebago, 186 Ill. App. 3d 303, 311-13 (2nd Dist. 1989); Waste Management of Illinois, Inc. v. PCB, 175 Ill. App. 3d 1023, 1044 (2nd Dist. 1988).

Given the anti-landfill statements and website of council member Sutcliff, however, the Second District found “questionable” the Board’s rulings that her bias was not established. Op. at ¶¶ 81, 84. According to the court, a disinterested observer could conclude that the council member prejudged the application. Op. at ¶¶ 81, 83. However, the court stressed that reversal (*i.e.*, siting approval), a “harsh result” advocated by Fox Moraine, would not have been required. Op. at ¶ 82. Instead, the proper remedy would have been to disqualify the council member in question, which “would still leave a majority of the council members voting against the application.” Op. at ¶ 84. After the Second District criticized the Board’s order as “virtually void of any critical analysis,” leaving the court “to ponder how the Board reached its conclusions,” the court ruled that the Board’s decision was not clearly erroneous. *Id.*

SITING CRITERIA

Court’s Standard of Review

The court applies the “manifest-weight-of-the-evidence standard” in reviewing the Board’s decision affirming the city council. Op. at ¶ 87, citing 415 ILCS 5/41(b); Town and Country Utilities, Inc. v. PCB, 225 Ill. 2d 103, 119, 123 (2007). The Board must review the local siting authority’s findings on each criterion, but “a negative finding as to one of the criteria is sufficient to defeat an application.” Op. at ¶ 90, citing City of Rockford, 186 Ill. App. 3d at 316. The court could therefore “confirm the Board’s decision based on any one of the criteria.” *Id.*, citing Town and Country, 225 Ill. 2d at 125.

Board’s Standard of Review and Technical Expertise

Before turning to the specific criteria being contested, Fox Moraine, citing Town and Country, 225 Ill. 2d at 120-23, argued that that the Board failed to apply its technical expertise in examining the local record. Op. at ¶ 88. The Second District observed that under the Illinois Supreme Court’s Town and Country decision, even though the

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Board is confined to the local record, the Board's technical expertise remains relevant and should be applied in examining the record to determine whether the record supports the siting authority's conclusions. Op. at ¶ 88, citing Town and Country, 225 Ill. 2d at 123. The court first disagreed with Fox Moraine's claim that Town and Country changed the Board's standard of review to require "something less than *de novo* but more than the manifest weight of the evidence." Op. at ¶ 88. Rather, the Board is to review the siting authority's decision under the manifest-weight-of-the-evidence standard, and the reviewing court is to "review the Board's decision and give deference to that decision, not to the siting authority's decision." Op. at ¶ 88, citing Town and Country, 225 Ill. 2d at 118.

The Second District held that the Board did use its expertise in reviewing the evidence to decide whether it supported the city council's conclusions, adding that "[t]he council, not the Board, had the duty to resolve conflicts in evidence." Op. at ¶ 89. But, the court "agree[d] with Fox Moraine that in its decision, the Board spent more time summarizing the arguments of the parties than it did analyzing those arguments in any usable legal framework." *Id.*

Section 39.2(a) Siting Criteria

The court set forth the nine siting criteria of Section 39.2(a) of the Act in their entirety (i-ix), along with the so-called "tenth criterion" of Section 39.2(a):

- (i) the facility is necessary to accommodate the waste needs of the area it is intended to serve;
- (ii) the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
- (iii) the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;
- (iv) (A) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain or the site is flood-proofed;
- (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year floodplain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a, the site is flood-proofed;
- (v) the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;
- (vi) the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;
- (vii) if the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;
- (viii) if the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan; for purposes of this criterion (viii), the 'solid waste management plan' means the plan that is in effect as of the date the application for siting approval is filed; and
- (ix) if the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met.

The county board or the governing body of the municipality may also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary or parent corporation) in the field of solid waste management [the "tenth criterion"] when considering criteria (ii) and (v) under this Section. Op. at ¶ 13, quoting 415 ILCS 5/39(a) (emphasis added to criteria at issue).

The court recounted the evidence relating to each of the contested criteria in detail. While finding fault with the Board's analysis of criteria (i), (v), and (vi) of Section 39.2(a) ("the Board's decision deprived the parties of any meaningful analysis"), the court held that the Board's findings as to criteria (ii), (iii), and (viii) were not against the manifest weight of the evidence. Op. at ¶¶ 102, 103, 108, 109, 117, 119. Of note is the court's recognition that

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“uncertainty” about the proposed operator’s corporate relationships is a legitimate consideration under the “tenth criterion” (Op. at ¶ 103) and the court’s rejection of the argument that criterion (viii) applies only if the facility is to be located upon unincorporated land (Op. at ¶ 104).

As previously stated, Fox Moraine has until January 17, 2012 to file a petition for leave to appeal the Second District decision.

Rulemaking Update

Board Accepts for Hearing IEPA Proposal to Amend Special Waste Hauling Regulations, R12-13

On November 17, 2011, the Board accepted for hearing a proposal to amend Part 809 of the Board’s solid waste and special waste hauling regulations. On October 28, 2011, the Illinois Environmental Protection Agency (IEPA) filed the proposal, which was docketed as In the Matter of: Proposed Amendments to Nonhazardous Special Waste Hauling and the Uniform Program: 35 Ill. Adm. Code 809, R12-13.

The IEPA proposes to remove all reference to the Uniform Hazardous Materials Transportation Registration and Permit Program (Uniform Program) from the Waste Hauling regulations. IEPA explains that, because the funds generated by the Uniform Program do not warrant the increased resources needed to permit haulers under the program, the General Assembly withdrew Illinois from the program when it passed Public Act 97-220, eff. July 28, 2011. The proposal implements this legislative decision.

After conducting hearings on this proposal and reviewing any post-hearing public comments, the Board will determine whether to adopt a first notice opinion and order for publication in the *Illinois Register*. Hearings are scheduled for:

January 12, 2012 at 1:00 pm at Illinois Pollution Control Board Conference Room, First Floor, 1021 N. Grand Ave. East (North Entrance), Springfield, IL, and

February 15, 2012 at 1:00 pm at Illinois Pollution Control Board Conference Room 11-512, James R. Thompson Center, 100 W. Randolph St., Chicago, IL.

Interested persons should also review the November 21, 2011 order issued by the hearing officer. The order outlines various procedural details concerning the hearings, including dates for the pre-filing of testimony.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.

In addition, public comments may be filed electronically through COOL at www.ipcb.state.il.us. Any questions about electronic filing through COOL should be directed to the Clerk’s Office at (312) 814-3629.

Opinions and orders of the Board and hearing officer, 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 from the Clerk’s office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

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

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Board Actions

November 3, 2011**Chicago, Illinois**

- AC 12-2** IEPA v. David and Vivian Wright – The Board found that these Fayette County respondents violated Sections 21(p)(1) and 21(p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2010)), and ordered respondents to pay a civil penalty of \$3,000. 5-0
- AC 12-3** IEPA v. Ashwin P. and Mia A. Patel – The Board accepted respondents’ petition for review for hearing. 5-0
- AC 12-4** IEPA v. Garrison Properties, Inc. & River City Roofing Company, Inc – The Board accepted respondents’ petition for review for hearing. 5-0
- AC 12-5** IEPA v. Petro Nation, Inc., d/b/a Golf Mill Shell – The Board found that this Cook County respondent violated Section 55(k)(1) of the Act (415 ILCS 5/55(k)(1) (2010)), and ordered respondent to pay a civil penalty of \$1,500. 5-0

Adjudicatory Cases

- PCB 10-9** People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., 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., – In this land enforcement action concerning a Macon 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) (2010)) as to Combe Laboratories, Inc., only, accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$12,300.00, and to cease and desist from further violations. Combe Laboratories, Inc. also agreed to pay the People’s attorney’s fees in the amount of \$275.00. L-E 5-0
- PCB 10-100** Rolf Schilling, Pam Schilling and Suzanne Ventura v. Gary D. Hill, Villa Land Trust, and Prairie Living West, LLC – The Board directed respondents to file with the Board proper proof that they have served the third-party complaint on Horve Contractors, Inc. on or before December 5, 2011. 5-0 L-E, Citizens
- PCB 11-21** People of the State of Illinois v. Prairieland Investment Group, LLC, and Kevin S. Cook, d/b/a KC Construction – 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 Hancock County facility, the Board ordered publication of the required newspaper notice. 5-0 W-E

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PCB 11-27	<u>People of the State of Illinois v. Sud Family Limited Partnership</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 Peoria County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 11-67	<u>People of the State of Illinois v. Town of Cortland</u> – The Board granted the complainant’s motion to strike the affirmative defenses and denied motion to strike the section of the answer entitled “Additional Affirmative Defenses.” The Board granted respondent leave to amend its third, fourth, sixth and seventh affirmative defenses to correct factual deficiencies. Any amendments must be filed by December 5, 2011.	5-0 W-E
PCB 12-15	<u>Gary Szczeblewski v. State Fire Marshall, Divison of Petroleum & Chemical Safety</u> – Since no amended petition or filing fee was filed as ordered in the Board’s September 8, 2011 order, the previously-filed petition was dismissed.	5-0 UST Appeal
PCB 12-17	<u>Shell Oil Products U.S. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Madison County facility.	5-0 UST Appeal
PCB 12-18	<u>The Premcor Refining Group, Inc. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Macon County facility.	5-0 UST Appeal
PCB 12-20	<u>Clean Construction & Recycling, LLC and G & E Eight Series, LLC v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Winnebago County facility.	5-0 P-A, Air,
PCB 12-57	<u>City of Taylorville/ Taylorville Municipal Airport v. IEPA</u> – The Board ordered petitioner to file an amended petition curing the noted deficiencies on or before December 2, 2011, or this docket will be dismissed.	5-0 UST Appeal
PCB 12-58	<u>Atkinson Landfill Company v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Henry County facility.	5-0 P-A, Air
PCB 12-59	<u>People of the State of Illinois v. Village of Cave In Rock and Maier's Tidy Bowl, Inc.</u> – In this land enforcement action involving a Hardin County facility, the Board accepted the complaint for hearing. The complaint was accompanied by a proposed stipulation and settlement agreement with People of the State of Illinois and Maier’s Tidy Bowl, Inc. The Board ordered publication of the required newspaper notice.	5-0 W-E

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November 17, 2011
Chicago, Illinois

Rulemakings

R 12-13 In the Matter of: Proposed Amendments to Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809) – The Board accepted for hearing petitioner's October 28, 2011 proposal to amend the Board's solid waste and special waste hauling regulations. 5-0
Land

Adjusted Standards

AS 12-1 In the Matter of: Petition of Cabot Corporation for an Adjusted Standard from 35 Ill. Adm. Code Part 738, Subpart B – The Board accepted petitioner's petition for an adjusted standard and granted the motion to incorporate documents. The Board granted petitioner's motion for stay of the proceedings for a six month period, subject to extension by the hearing officer. The Illinois Environmental Protection Agency's deadline for filing a recommendation is extended until 45-days after the end of the stay. 5-0
Land

Adjudicatory Cases

PCB 10-9 People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., 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., – In this land enforcement action concerning a Macon 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) (2010)) as to Borg Warner, Inc., only, accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$39,000.00, and to cease and desist from further violations. Borg Warner also agreed to pay the People's attorney's fees in the amount of \$250.00. L-E
5-0

PCB 11-25 Estate of Gerald D. Slightom v. IEPA – The Board denied respondent's motion for summary judgment. The Board also denied petitioner's motions for interlocutory appeal and for leave to file a surreply. 5-0
UST Appeal

PCB 12-14 Center Point Energy, Mississippi River Transmission, LLC v. IEPA – The Board granted petitioner's motion to stay the effectiveness of its revised Clean Air Act Permit Program permit. 5-0
P-A, Air

PCB 12-19 Speedway, LLC (November 28, 2010 to December 31, 2010) v. IEPA – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Lake County facility. 5-0
UST Appeal 90-Day Extension

PCB 12-22 Speedway, LLC (October 20, 2009 through November 28, 2009) v. IEPA – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Cook County facility. 5-0
UST Appeal 90-Day Extension

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PCB 12-25	<u>Speedway, LLC v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Cook County facility.	5-0 UST Appeal 90- Day Extension
PCB 12-28	<u>People of the State of Illinois v. Strout Crossing, LLC, Jerry Webster, and Mark Webster</u> – In this water enforcement action concerning a Pike 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$6,500.00, and to cease and desist from further violations.	5-0 W-E
PCB 12-35	<u>People of the State of Illinois v. Six M. Corporation, Inc., William Maxwell, and Marilyn Maxwell</u> – The Board granted respondents’ motion to dismiss decedent Marilyn Maxwell, but denied the motion to dismiss respondent William Maxwell.	5-0 W-E
PCB 12-43	<u>People of the State of Illinois v. Forbo Adhesives, LLC</u> – In this land enforcement action concerning a Grundy 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$44,403.00, and to cease and desist from further violations.	L-E 5-0
PCB 12-44	<u>Anielle Lipe and Nykole Gillette v. Village of Richton Park</u> – The Board found this complaint to be frivolous, granted respondents’ motion to dismiss the complaint, and closed the docket.	5-0 A-E, Citizens
PCB 12-51	<u>Kramer Tree Specialist, Inc. v. IEPA</u> – The Board accepted for hearing petitioner’s amended petition for review involving a DuPage County facility.	5-0 P-A, Land
PCB 11-90	<u>Congress Development Company v. IEPA</u>	5-0
PCB 12-12 (cons.)	<u>Congress Development Company v. IEPA</u>	P-A, Air
PCB 12-55	<u>Congress Development Company v. IEPA</u>	
PCB 12-56	<u>Congress Development Company v. IEPA</u> – The Board accepted petitioner’s petition for review in docket PCB 12-56. The Board granted petitioner’s motion to consolidate the PCB 11-90, PCB 12-12, PCB 12-55, and PCB 12-56, for purposes of hearing.	
PCB 12-60	<u>People of the State of Illinois v. Wahl Clipper Corporation</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Whiteside County facility, the Board ordered publication of the required newspaper notice.	5-0 L-E

New Cases

November 3, 2011 Board Meeting

12-56 Congress Development Company v. IEPA – No action taken.

12-57 City of Taylorville/ Taylorville Municipal Airport v. IEPA – The Board ordered petitioner to file an amended petition curing the noted deficiencies on or before December 2, 2011, or this docket will be dismissed.

12-58 Atkinson Landfill Company v. IEPA – The Board accepted for hearing this permit appeal involving a Henry County facility.

12-59 People of the State of Illinois v. Village of Cave In Rock and Maier's Tidy Bowl, Inc. – In this land enforcement action involving a Hardin County facility, the Board accepted the complaint for hearing. The complaint was accompanied by a proposed stipulation and settlement agreement with People of the State of Illinois and Maier's Tidy Bowl, Inc. The Board ordered publication of the required newspaper notice.

R12-13 In the Matter of: Proposed Amendments to Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809) – No action taken.

AC 12-6 IEPA v. David W. Edwards and Linda Edwards – The Board accepted an administrative citation against these Williamson County respondents.

AC 12-7 County of Perry v. Ronald Hammel – The Board accepted an administrative citation against this Perry County respondent.

AC 12-8 County of Macon v. Violet Gossett – The Board accepted an administrative citation against this Macon County respondent.

AC 12-9 County of Macon v. Essie Neal – The Board accepted an administrative citation against these Macon County respondents.

AC 12-10 County of Perry v. Angie Woodrome – The Board accepted an administrative citation against this Perry County respondent.

AC 12-11 County of Jackson v. Greg Cain – The Board accepted an administrative citation against this Jackson County respondent.

AC 12-12 County of DuPage v. Dale A Turek and Ronald J. Turek – The Board accepted an administrative citation against these DuPage County respondents.

November 17, 2011 Board Meeting

12-60 People of the State of Illinois v. Wahl Clipper Corporation – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Whiteside County facility, the Board ordered publication of the required newspaper notice.

AC 12-13 IEPA v. Rodney K. Brown – The Board accepted an administrative citation against this Morgan County respondent.

AC 12-14 IEPA v. Harold Dean Foster – The Board accepted an administrative citation against this Pike County respondent.

AC 12-15 County of Vermilion, Illinois v. Patricia Wernigk – The Board accepted an administrative citation against this Vermilion County respondent.

Environmental Register – November 2011

Calendar

12/1/2011 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
12/15/2011 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
12/20/11 1:00 PM	AS 11-01	<u>In the Matter of: Petition of Greif Packaging, LLC for an Adjusted Standards from 35 Ill. Adm. Code Part 218. Subpart TT</u>	James R. Thompson Center Room 11-512 100 W. Randolph Street Chicago
1/5/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
1/12/12 1:00 PM	R12-13	<u>In the Matter of: Proposed Amendments to Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809)</u>	Illinois Pollution Control Board Conference Room, First Floor 1021 North Grand Avenue East (North Entrance) Springfield
1/19/2012 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
2/2/2012 11:00 am	Illinois Pollution Control Board Meeting		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
2/15/12 1:00 PM	R12-13	<u>In the Matter of: Proposed Amendments to Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809)</u>	Illinois Pollution Control Board Conference Room 11-512 James R. Thompson Center 100 W. Randolph Street Chicago
2/15/12 10:00 AM	PCB 11-51	<u>Evergreen FS, Inc. v IEPA</u>	Illinois Pollution Control Board Conference Room, First Floor 1021 North Grand Avenue East (North Entrance) Springfield
2/16/2012 11:00 am	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago

Environmental Register – November 2011

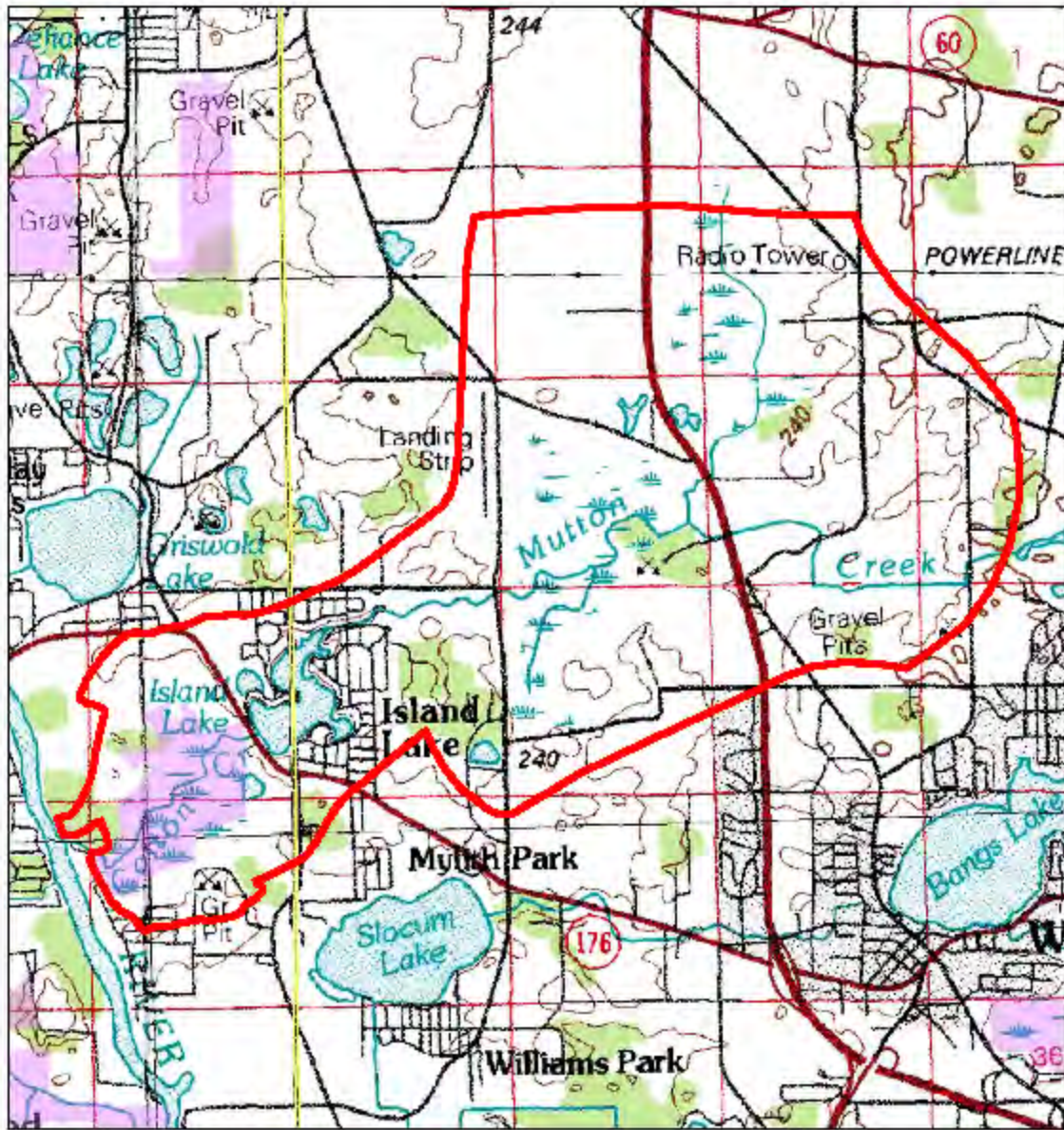
2/22/12 10:00 AM	PCB 11-56	<u>Green Oil Company v. IEPA</u>	Illinois Pollution Control Board Conference Room, First Floor 1021 North Grand Avenue East (North Entrance) Springfield
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EXHIBIT 1




Cotton Creek Marsh

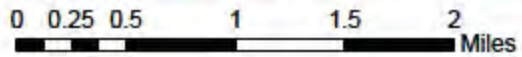
Class III Designation Proposal

Cotton Creek Marsh Class III Groundwater Area



Legend

-  Proposed Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries



Environmental Register – November 2011

Cotton Creek Marsh Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Cotton Creek, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Cotton Creek Marsh Nature Preserve is located on the eastern boundary of McHenry County, in the Village of Island Lake. Plant communities at this site include marsh, sedge meadow, low gradient creek, wet prairie, successional fields and fen, which depend on the specialized hydrogeologic conditions to deliver mineral-rich groundwater for their continued survival. The marsh is also home to two threatened plants and one threatened animal. Cotton Creek Marsh is a 249.1 acre tract of land owned by the McHenry County Conservation District, located in Sections 20 and 29, Township 44 North, Range 9 East, McHenry County. The groundwater contribution area (GCA), which is proposed for Class III designation, is 8.1 square miles (5,184 acres) surrounding the marsh and stretching to the northeast, extending into Lake County.

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.

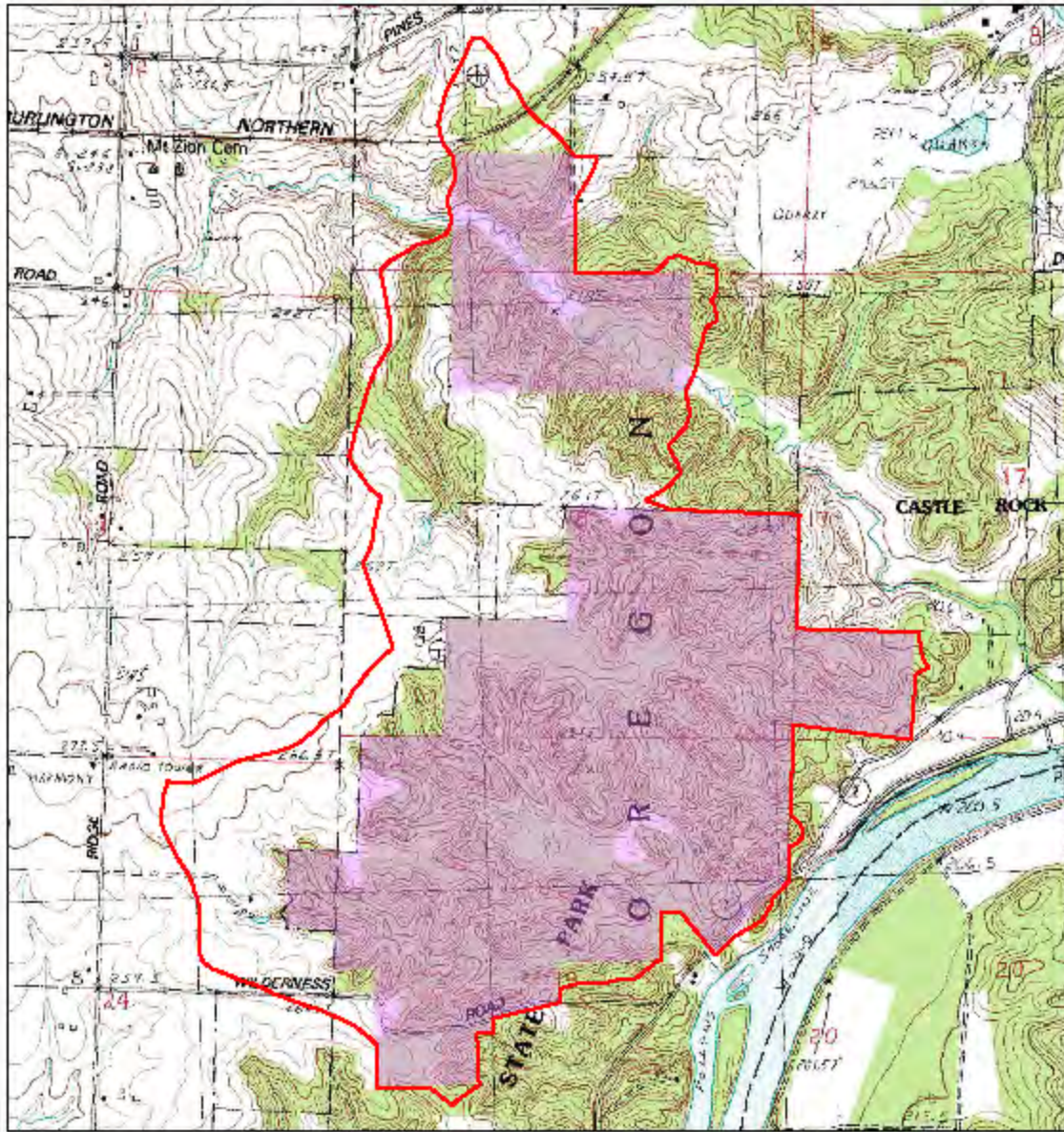
EXHIBIT 2

George B. Fell

Class III Designation Proposal

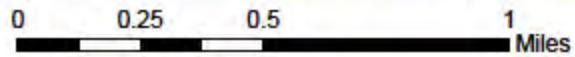
Environmental Register – November 2011

George B. Fell Class III Groundwater Area



Legend

- Proposed Class III Groundwater Area
- Dedicated Nature Preserves
- County Boundaries



Environmental Register – November 2011

George B. Fell Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of George B. Fell, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. George B. Fell Nature Preserve is located in central Ogle County, Illinois, as a part of Castle Rock State Park, near the City of Oregon. The preserve is recognized as having the only remaining assemblage of relict boreal plants of their type left in Illinois, and is documented to support at least ten state-listed threatened or endangered plants and two state-threatened animals. The 709 acre nature preserve is divided into a northern portion and a southern portion, situated in Sections 7, 17, 18, and 19 in Township 23 North, Range 10 East and in Section 24 in Township 23 North, Range 9 East, of the Third Principal Meridian. The GCA for the preserve, which is proposed for Class III designation, totals 1.6 square miles (1,024 acres), within 0.5 and 0.25 miles around the edges of the northern and southern portions, respectively.

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.

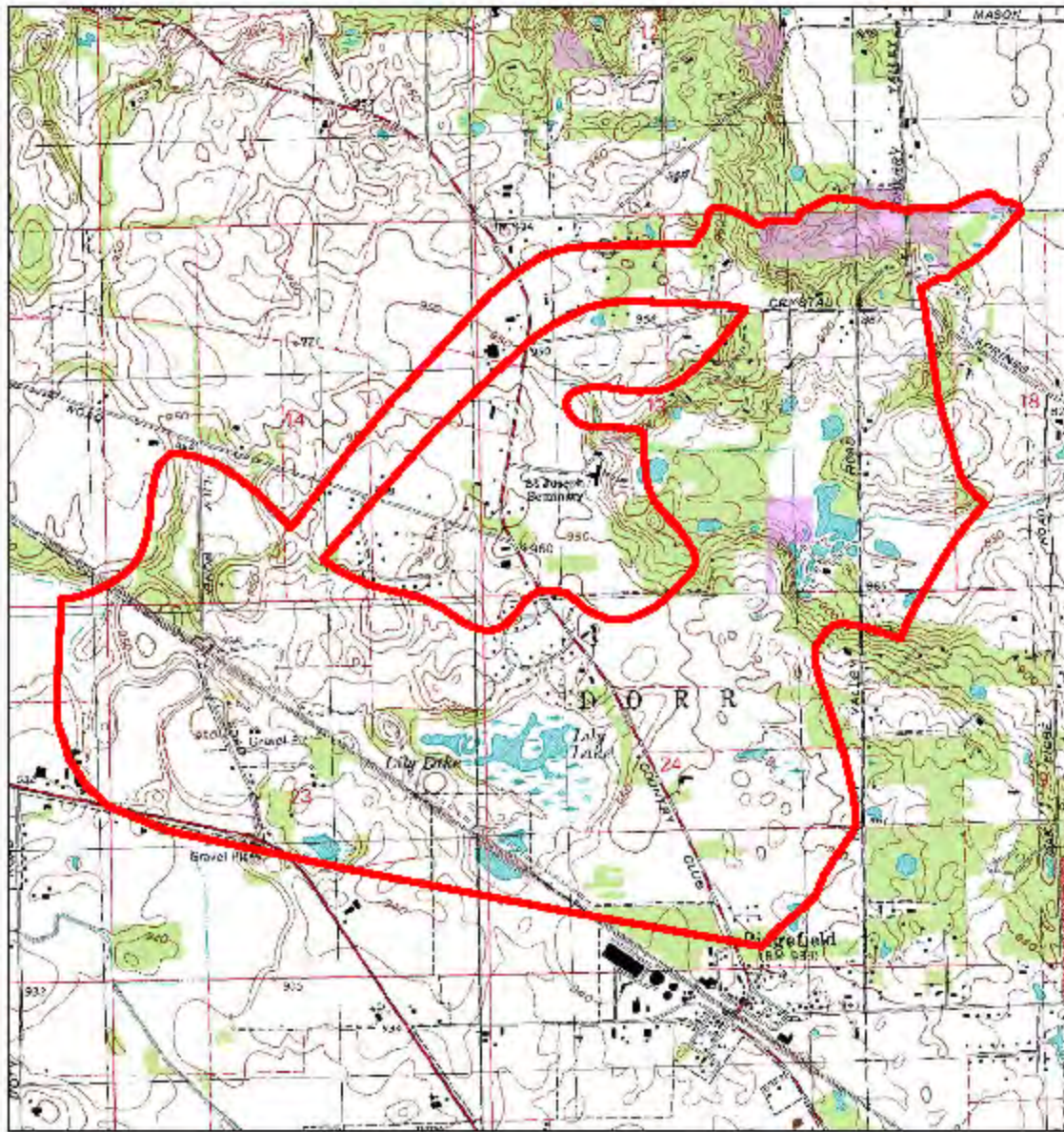
EXHIBIT 3

Gladstone Fen




Class III Designation Proposal

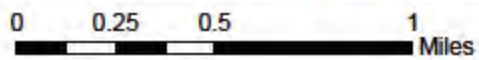
Environmental Register – November 2011

Gladstone Fen Class III Groundwater Area



Legend

-  Proposed Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries



Environmental Register – November 2011

Gladstone Fen Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Gladstone Fen, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Gladstone Fen Nature Preserve is located on an 11.8 acre tract located within and adjacent to a 38 acre tract included in the Illinois Natural Areas Inventory (INAI) in east central McHenry County, near the Village of Bull Valley. The sensitive ecological communities include fen, sedge meadow, prairie and oak savanna. Both the fen and sedge meadow rely on naturally mineralized groundwater to support their biological communities. The site is also documented to support two state-threatened plants. Jointly owned by Lorna and Evan Gladstone and the McHenry County Conservation District, Gladstone Fen and the INAI form an interdependent area that consists of 49.8 acres positioned in Section 18, Township 44 North, Range 8 East, of the Third Principal Meridian. The GCA, which is proposed for Class III designation, extends southwest of the preserve, covering 2.64 square miles (1,690 acres).

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.

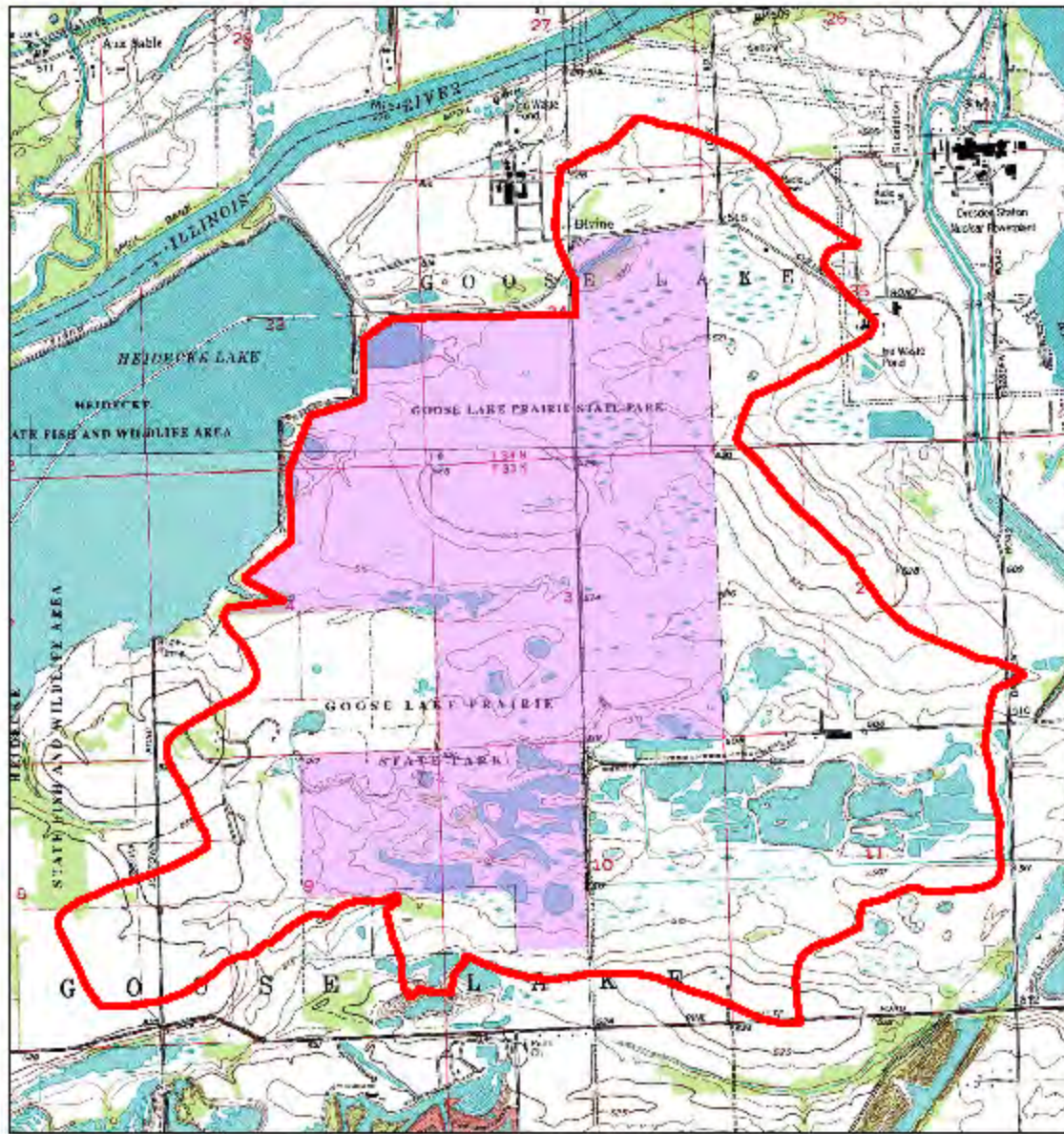
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

EXHIBIT 4




Goose Lake Prairie

Class III Designation Proposal

Goose Lake Prairie Class III Groundwater Area



Legend

-  Proposed Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries



Environmental Register – November 2011

Goose Lake Prairie Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Goose Lake Prairie, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Goose Lake Prairie Nature Preserve is located on 1,628 acres in Sections 3, 4, 9, and 10 in Township 33 North, Range 8 East and portions of Sections 33 and 34 in Township 34 North, Range 8 East, Grundy County, on property owned by the Illinois Department of Natural Resources. Goose Lake Prairie represents the largest remnant prairie in Illinois. Fifteen species of State threatened and State endangered species survive in the prairie or use it for nesting. Included among the rare animals are two species of moths. One species had never before been classified and named. The other species was thought to be extinct until it was rediscovered at Goose Lake Prairie in 1995. The groundwater at the site is important to this unique community, particularly the wet prairie areas. The GCA for Goose Lake Prairie, which is proposed for Class III designation, extends primarily to the south of the nature preserve and encompasses 5.7 square miles (3,648 acres).

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.

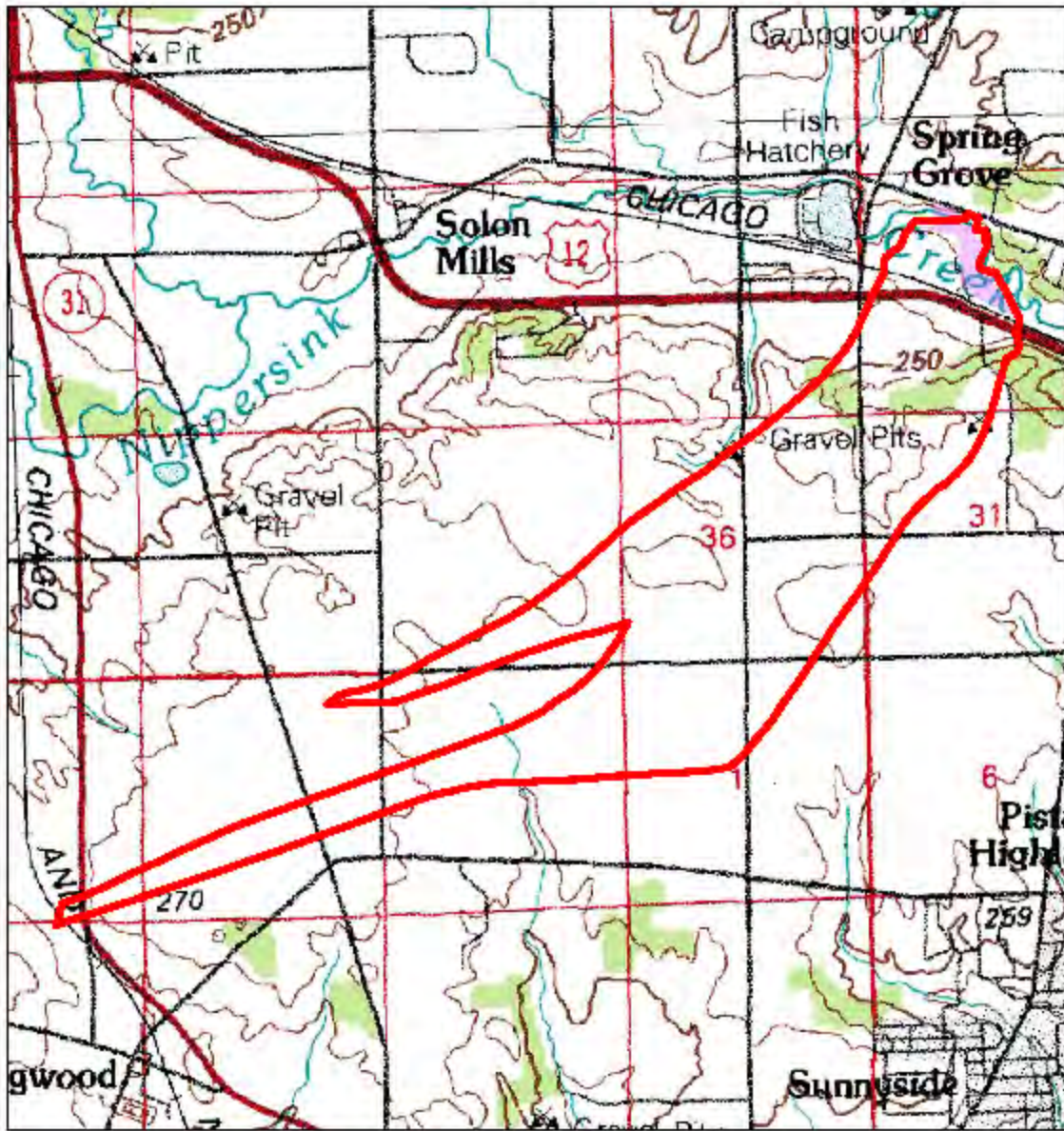
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

EXHIBIT 5




Spring Grove Fen

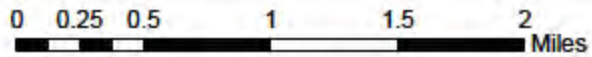
Class III Designation Proposal

Spring Grove Fen Class III Groundwater Area



Legend

-  Proposed Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries



Environmental Register – November 2011

Spring Groove Fen Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Spring Grove Fen, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Spring Grove Fen Nature Preserve is located on a series of glacial terraces along Nippersink Creek, southeast of Spring Grove. The 33.4 acre parcel is owned by the McHenry County Conservation District and is in Section 30, Township 46 North, Range 9 East, McHenry County. The mineral rich groundwater discharging on the nature preserve contributes to the perpetuation of high quality graminoid fen and very high quality sedge meadow communities. The nature preserve is known to harbor one State endangered plant, one State threatened plant and one State threatened animal. The GCA for Spring Grove Fen Nature Preserve, which is proposed for Class III designation, is 2.4 square miles (1,550 acres) that extends to the southwest of the preserve.

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.

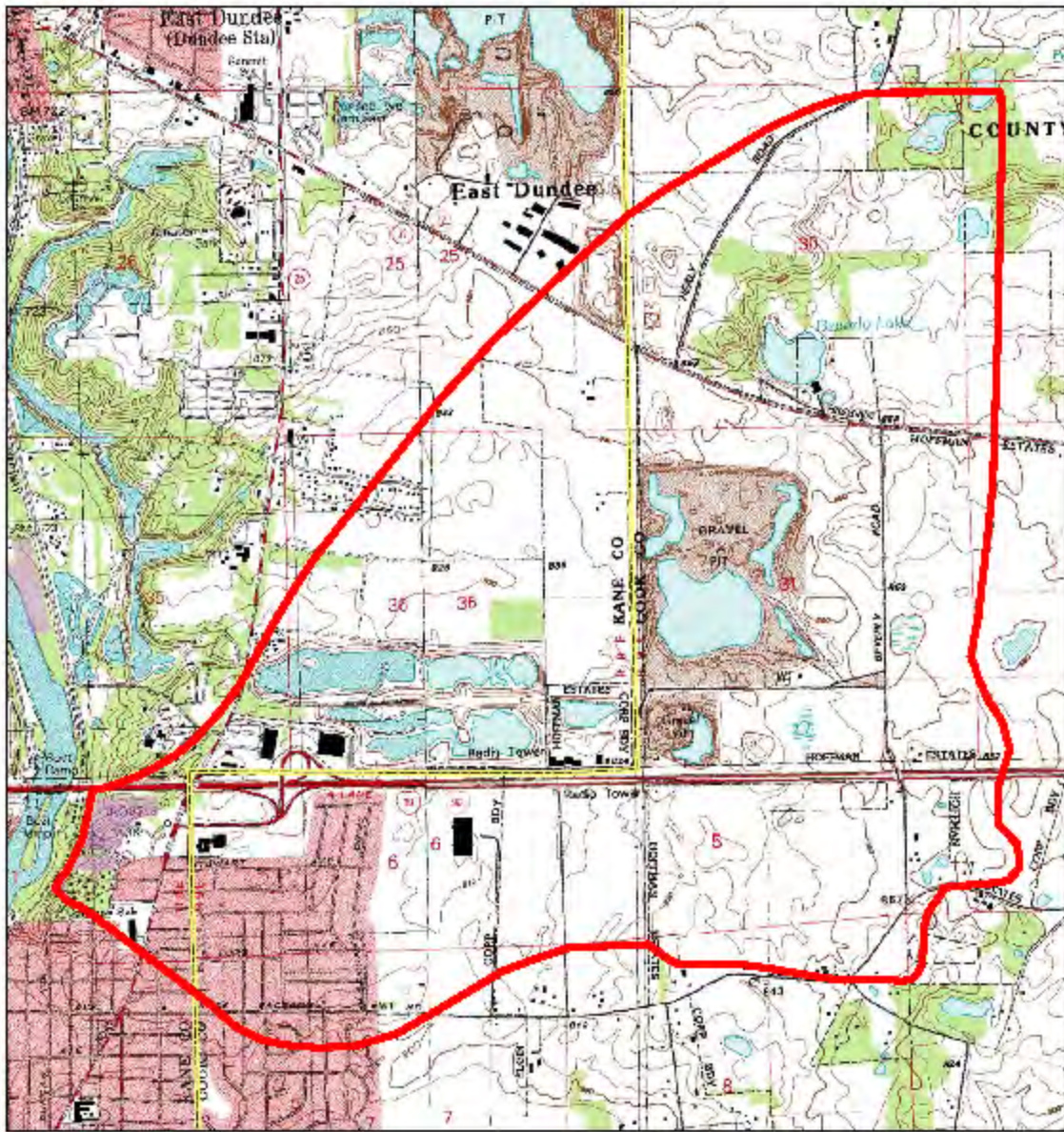
EXHIBIT 6

Trout Park




Class III Designation Proposal

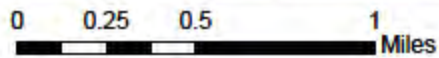
Environmental Register – November 2011

Trout Park Class III Groundwater Area



Legend

-  Proposed Class III Groundwater Area
-  Dedicated Nature Preserves
-  County Boundaries



Environmental Register – November 2011

Trout Park Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Trout Park, a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Trout Park Nature Preserve consists of two parcels totally 26.8 acres owned by the City of Elgin. The nature preserve is located in Section 1, Township 41 North, Range 8 East, Kane County. Of the total acreage contained in the nature preserve, 9.5 acres are composed of a rare, forested fen. Only 14.5 acres of forested fen are known to exist in Illinois. In addition to the rare plant life supported by the highly mineralized groundwater, which includes one State endangered and two State threatened plant species, the cool groundwater seeps and ravines in the nature preserve combine to form microclimates. The cooler than normal microclimates within the ravines allows plants and animals typically found further north, such as the Northern White Cedar, to survive in Illinois. The Northern White Cedar is typically found in Canada, northern Minnesota and east to the New England states. The GCA for Trout Park Nature Preserve, which is proposed for Class III designation, is 4.9 square miles (3,109 acres) that located to the northeast of the preserve and extends into Cook County.

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.

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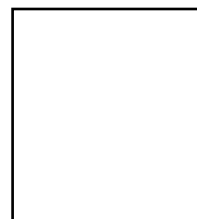
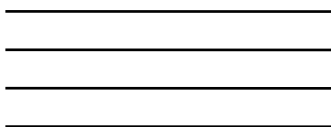
Environmental Register Comment Card

Lined area for writing comments, consisting of 20 horizontal lines.

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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Illinois Pollution Control Board
Environmental Register Coordinator
1021 N. Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274

Environmental Register

May 2010 - Number 671

The Environmental Register is a Publication of the Illinois Pollution Control Board

G. Tanner Girard, Acting Chairman

Board Members:

Thomas E. Johnson, Andrea S. Moore, Gary Blankenship, and Carrie Zalewski

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Springfield, Illinois 62794-9274
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Web Site: <http://www.ipcb.state.il.us>

Letter from the Chairman

During May, the Board was active in several open rulemaking dockets. Progress in those dockets is summarized below. As always, information about these proceedings is available through the Clerk's Office Online (COOL) at our Web site at www.ipcb.state.il.us.

R10-21 Regulatory Proposal for 10-Year Federally Enforceable State Operating Permits (FESOP) Amendments to 35 Ill. Adm. Code Part 201.162. On May 6, 2010, the Board accepted for hearing this proposal filed by the Illinois Environmental Protection Agency (IEPA) on April 21, 2010. The IEPA's proposal seeks to extend the possible duration of Federally Enforceable State Operating Permits (FESOP) for state air pollution control permits from 5 years to 10 years.

R10-20 Reasonably Available Control Technology (RACT) for Volatile Organic Material Emission From Group IV Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219. The second hearing in this docket took place on May 19, 2010 in Chicago. On March 8, 2010, the IEPA filed this proposal under provisions including the "fast-track" rulemaking authority of Section 28.5 of the Act. The IEPA's proposal responds to control techniques guidelines (CTGs) issued by the United States Environmental Protection Agency (USEPA) for the following Group IV Consumer and Commercial Product Categories: miscellaneous metal and plastic parts coatings; auto and light-duty truck coatings; miscellaneous industrial adhesives; and fiberglass boat manufacturing materials.

R10-9 Financial Assurance Instruments--Renewal and Terms: Amendments to 35 Ill. Adm. Code 807.Subpart F, 810.104 and 811.Subpart G. On May 11, 2010, the Board held the first hearing in this docket in Springfield. In a proposal filed on July 27, 2009, the IEPA sought to update specific segments of the Illinois non-hazardous waste landfill regulations relating to financial assurance.

R10-8 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. On May 6, 2010, the Board adopted its second-notice opinion and order. On July 9, 2009, the IEPA proposed air pollution regulations to reduce emissions of volatile organic material (VOM) from Group II Consumer & Commercial Products, which include industrial cleaning solvents, flat wood paneling coatings, flexible packaging printing materials, lithographic printing materials, and letterpress printing materials.

R08-9(B) 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. Subdocket B in R08-9 addresses whether disinfection is necessary to meet proposed recreational use designations for the waterways. On May 28, 2010, the Board received prefiled testimony from several participants for hearings scheduled on June 29 and 30, 2010 in Chicago.

Public participation is welcomed in all of our rulemaking dockets. For information, consult our website at www.ipcb.state.il.us.



Sincerely,

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

Dr. G. Tanner Girard

Inside This Issue:

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CLASS III GROUNDWATER LISTING FINAL NOTICE	P. 9

Rulemaking Update

Board Adopts Second Notice Opinion and Order in 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,R10-08(May 6, 2010).

On May 6, 2010, the Illinois Pollution Control Board adopted a second-notice opinion and order proposing air pollution regulations. The General Assembly's Joint Committee on Administrative Rules will review this rulemaking for compliance with the Illinois Administrative Procedure Act at its June 15, 2010 meeting.

The Illinois Environmental Protection Agency (IEPA) initiated this proceeding on July 9, 2009, and the Board has docketed it as 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,R10-08.

The proposed air regulations would reduce emissions of volatile organic material (VOM) for Group II Consumer & Commercial Products in ozone nonattainment areas classified as moderate and above in order to meet Illinois' obligations under the federal Clean Air Act. Chicago and St. Louis/Metro East areas in Illinois have been designated as moderate nonattainment areas for the 8-hour ozone standard. VOM is characterized by the IEPA as "a primary precursor to the formation of ground-level ozone."

After two hearings, the Board concluded that the IEPA proposal constitutes RACT for VOM for the category of Group II consumer and commercial products. Group II products include industrial cleaning solvents, flat wood paneling coatings, flexible packaging printing materials, lithographic printing materials and letter press printing materials.

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: Pollution Control 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.

The Board Accepts for Hearing IEPA Proposal In the Matter of: 10-Year Federally Enforceable State Operating Permits (FESOP): Amendments to 35 Ill. Adm. Code 201.162, R10-21 (May 6, 2010)

The Pollution Control Board, on May 6, 2010, accepted for hearing a proposal to amend the Board's air rules. On April 20, 2010, the Illinois Environmental Protection Agency (IEPA) filed with the Board the rulemaking proposal docketed as In the Matter of: 10-Year Federally Enforceable State Operating Permits (FESOP): Amendments to 35 Ill. Adm. Code 201.162,R10-21. The IEPA states that this proposal would extend from five-years to 10-years the maximum term that the IEPA could issue a Federally Enforceable State Operating Permit (FESOP). The sole provision of the air rules to be amended is Section 201.162.

The IEPA explains that the amendments are "expected to reduce administrative costs of the permitting process for both the affected sources and the Illinois EPA." The IEPA states that FESOP sources are located throughout the

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state, and that the proposed rules will affect approximately 800 sources that have applied for or obtained FESOPs. The IEPA explains that it has averaged 61 new FESOP applications each year since the year 2000, and 66 FESOP renewal applications each year over the last ten years. If the proposal is adopted the IEPA may choose to issue a FESOP for a term shorter than ten years for situations in which the source may have been out of compliance.

The Board is in the process of scheduling two hearings. The Board encourages persons to file public comments on these proposed amendments. The docket number for this rulemaking, R10-21, should be indicated on the public comment.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.

In addition, public comments may be filed electronically through COOL at www.ipcb.state.il.us. Any questions about electronic filing through COOL should be directed to the Clerk’s Office at (312) 814-3629

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

For more information contact Kathleen Crowley at (312)-814-6929 or email at crowlek@ipcb.state.il.us.

Board Actions

May 6, 2010 Via Videoconference Springfield and Chicago, Illinois

Rulemakings

- | | | |
|----------------|--|------------|
| R 10-8 | <u>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 –</u>
The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s air pollution regulations. | 5-0
Air |
| R 10-21 | <u>In the Matter of: Regulatory Proposal for 10-Year Federally Enforceable State Operating Permits (FESOP) Amendments to 35 Ill. Adm. Code Part 201.162 –</u> The Board accepted for hearing Illinois Environmental Protection Agency’s April 20, 2010 proposal to amend the Board’s air pollution regulations. | 5-0
Air |

Administrative Citations

- | | | |
|-----------------|---|-----|
| AC 10-18 | <u>County of Jackson v. Ed Cripps</u> – The Board found that this Jackson County respondent violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1),(p)(7) (2008)), and ordered respondent to pay a civil penalty of \$3,000. | 5-0 |
|-----------------|---|-----|

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AC 10-19	<u>County of Jackson v. Glenn Moore</u> – The Board found that this Jackson County respondent violated Sections 21(p)(1) of the Act (415 ILCS 5/21(p)(1)(2008)), and ordered respondent to pay a civil penalty of \$1,500.	5-0
AC 10-20	<u>County of Jackson v. Susan Crow</u> – The Board found that this Jackson County respondent violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1),(p)(7) (2008)), and ordered respondent to pay a civil penalty of \$3,000.	5-0
AC 10-22	<u>IEPA v. Jeff Dooley</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket.	5-0

Adjudicatory Cases

PCB 06-171	<u>American Bottom Conservancy v. Illinois Environmental Protection Agency and United States Steel Corporation - Granite City Works</u> – On remand from the Fifth District Appellate Court, the Board found that the Illinois Environmental Protection Agency’s (IEPA) did not abuse its discretion in declining the requests to hold a public hearing prior to the issuance of the U.S. Steel permit on March 31, 2006. The Board affirmed as written the National Pollutant Discharge Elimination System permit, issued by the IEPA to U.S. Steel.	5-0 P-A, NPDES 3 rd Party
PCB 09-74	<u>People of the State of Illinois v. David J. Shultz</u> – In this air enforcement action concerning a Sangamon 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 \$7,000.00, and to cease and desist from further violations.	5-0 A -E
PCB 10-14	<u>People of the State of Illinois v. Eco-Clean Environmental, Inc. now d/b/a Eco Environmental, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Montgomery County facility, the Board ordered publication of the required newspaper notice.	5-0 L-E
PCB 10-43	<u>People of the State of Illinois v. Robert Miller, d/b/a MIL-R-MOR FARM</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 Stephenson County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 10-63	<u>Community Landfill (Parcel B) 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 Grundy County facility.	5-0 P-A, Land, 90-Day Extension
PCB 10-64	<u>Community Landfill (Parcel A) 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 Grundy County facility.	5-0 P-A, Land, 90-Day 5-0 Extension
PCB 10-75	<u>Chicago Coke Co., Inc v. IEPA</u> – The Board adopted the stay order in this proceeding.	P-A, Air

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PCB 10-81	<u>Jakobs Brothers Farms, Inc. v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Jakobs Brothers Farms, Inc. located in Whiteside 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
PCB 10-82	<u>John and Jennifer Fehr - Rankin v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of John and Jennifer Fehr located in Iroquois 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
PCB 10-83	<u>Village of Morton v. IEPA</u> – The Board accepted for hearing this petition for a community well setback exception involving a site located in Tazewell County. The Board also granted the parties’ request for expedited hearing.	5-0 PWS-WWS
PCB 10-84	<u>People of the State of Illinois v. Professional Swine Management, LLC, Hilltop View LLC, Wildcat Farms, LLC, High-Power Pork, LLC, Eagle Point, LLC, Lone Hollow, LLC, Timberline, LLC, Prairie State Gilts, Ltd., North Fork Pork, LLC, Little Timber, LLC, and Twin Valley Pumping, Inc.</u> – The Board accepted for hearing this water enforcement action involving several sites located in Adams, Fulton, Hancock, and Schuyler Counties.	5-0 W-E
PCB 10-85	<u>Catherine Thomas, d/b/a Thomas 12th Street Disposal v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Vermilion County facility.	5-0 P-A, Land, 90-Day Extension
PCB 10-86	<u>People of the State of Illinois v. Illinois Fuel Company, LLC</u> – The Board accepted for hearing this water enforcement action involving a site located in Gallatin County.	5-0 W-E
PCB 10-87	<u>People of the State of Illinois v. Mark Pickett, d/b/a Mark’s Auto Sales</u> – The Board accepted for hearing this land enforcement action involving a site located in Winnebago County.	5-0 L-E
PCB 10-88	<u>Lee Brummer - Louisville v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Lee Brummer located in Clay 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
PCB 10-89	<u>People of the State of Illinois v. Freeport Area Economic Development Foundation, d/b/a Northwest Illinois Development Alliance and Weitz Industrial, LLC</u> – The Board accepted for hearing this water enforcement action involving a site located in Stephenson County.	5-0 W-E
PCB 10-90	<u>American Louver Company v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner’s motion for stay of specified conditions in the permit.	5-0 P-A, Air

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PCB 10-91	<u>4th Meridian Farm, Inc. - Rio v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of 4th Meridian Farm, Inc. located in Knox 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
PCB 10-92	<u>BMI Farms, LLC - Versailles v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of BMI Farms, LLC located in Brown 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
PCB 10-94	<u>People of the State of Illinois v. Gary L. Penrith</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Lake County facility, the Board accepted the case and ordered publication of the required newspaper notice.	5-0 W-E
PCB 10-95	<u>Triple E Farms - Altona v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Triple E Farms located in Knox 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

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Adjudicatory Cases

PCB 04-47	<u>Saint-Gobain Containers, Inc. v. IEPA</u> – The Board granted this Logan County facility’s motion for voluntary dismissal of this permit appeal.	5-0 P-A, Air
PCB 09-33	<u>S & D. Realty, Inc. v. IEPA</u> – The Board granted this Cook County facility’s motion for voluntary dismissal of this underground storage tank appeal.	5-0 UST Appeal
PCB 10-1	<u>Weeke Oil Company v. IEPA</u> – The Board affirmed the Illinois Environmental Protection Agency’s June 4, 2009 determination denying Weeke Oil Company’s request for reimbursement for early action costs at an underground storage tank site at 422 West St. Louis Street in Nashville, Washington County.	5-0 UST Appeal
PCB 10-61	<u>People of the State of Illinois v. Freeman United Coal Mining Company, LLC, and Springfield Coal Company, LLC</u> – The Board granted respondent Springfield Coal Co., LLC’s motion to allow Dale A. Guariglia to appeal <i>pro hac vice</i> on its behalf.	5-0 W-E
PCB 10-93	<u>Elk Grove Village/Former Penske Truck Leasing Facility (Incident-Claim No. 20081536-56785) v. IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies on or before June 21, 2010, or the petition would be subject to dismissal.	5-0 UST Appeal, 90- Day Extension
PCB 10-96	<u>Grainco FS, Inc. - Mazon v. IEPA</u> – Upon receipt of the Illinois	5-0

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Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of 4th Meridian Farm, Inc. located in Grundy County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)). T-C, W

PCB 10-97 Webel Feeds 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 Pike County facility. 5-0
UST
Appeal, 90-
Day
Extension

New Cases

May 6, 2010 Board Meeting

10-81 Jakobs Brothers Farms, Inc. v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Jakobs Brothers Farms, Inc. located in Whiteside County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).

10-82 John and Jennifer Fehr - Rankin v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of John and Jennifer Fehr located in Iroquois County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).

10-83 Village of Morton v. IEPA – The Board accepted for hearing this petition for a community well setback exception involving a site located in Tazewell County. The Board also granted the parties’ request for expedited hearing.

10-84 People of the State of Illinois v. Professional Swine Management, LLC, Hilltop View LLC, Wildcat Farms, LLC, High-Power Pork, LLC, Eagle Point, LLC, Lone Hollow, LLC, Timberline, LLC, Prairie State Gilts, Ltd., North Fork Pork, LLC, Little Timber, LLC, and Twin Valley Pumping, Inc. – The Board accepted for hearing this water enforcement action involving several sites located in Adams, Fulton, Hancock, and Schuyler Counties.

10-85 Catherine Thomas, d/b/a Thomas 12th Street Disposal v. IEPA – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Vermilion County facility.

10-86 People of the State of Illinois v. Illinois Fuel Company, LLC – The Board accepted for hearing this water enforcement action involving a site located in Gallatin County.

10-87 People of the State of Illinois v. Mark Pickett, d/b/a Mark's Auto Sales – The Board accepted for hearing this land enforcement action involving a site located in Winnebago County.

10-88 Lee Brummer - Louisville v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Lee Brummer located in Clay County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).

10-89 People of the State of Illinois v. Freeport Area Economic Development Foundation, d/b/a Northwest Illinois Development Alliance and Weitz Industrial, LLC – The Board accepted for hearing this water enforcement action involving a site located in Stephenson County.

10-90 American Louver Company v. IEPA – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner’s motion for stay of specified conditions in the permit.

10-91 4th Meridian Farm, Inc. - Rio v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of 4th Meridian Farm, Inc. located in Knox

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County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).

10-92 BMI Farms, LLC - Versailles v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of BMI Farms, LLC located in Brown County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).

10-93 Elk Grove Village/Former Penske Truck Leasing Facility (Incident-Claim No. 20081536-56785) v. IEPA – No action taken.

10-94 People of the State of Illinois v. Gary L. Penrith – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Lake County facility, the Board accepted the case and ordered publication of the required newspaper notice.

10-95 Triple E Farms - Altona v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Triple E Farms located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).

AC10-23 IEPA v. John J. and Kathy D. Still – The Board accepted an administrative citation against these Brown County respondents.

R10-21 In the Matter of: Regulatory Proposal for 10-Year Federally Enforceable State Operating Permits (FESOP) Amendments to 35 Ill. Adm. Code Part 201.162 – The Board accepted for hearing Illinois Environmental Protection Agency’s April 20, 2010 proposal to amend the Board’s air pollution regulations.

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10-96 Grainco FS, Inc. - Mazon v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of 4th Meridian Farm, Inc. located in Grundy County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).

10-97 Webel Feeds 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 Pike County facility.

AC10-24 IEPA v. Steve Danielson – The Board accepted an administrative citation against this Bureau County respondent.

AC10-25 IEPA v. Kenneth Verbout – The Board accepted an administrative citation against this Bureau County respondent.

AC10-26 IEPA v. Tuttle Grain, Inc. – The Board accepted an administrative citation against this Crawford County respondent.

AC10-27 County of Jackson v. KRD Trucking – The Board accepted an administrative citation against this Jackson County respondent.

Provisional Variance

IEPA 10-04 Reckitt Benckiser Inc. v. Illinois Environmental Protection Agency – The Illinois Environmental Protection Agency (IEPA) granted, subject to conditions, Reckitt Benckiser Inc.’s (Reckitt) May 24, 2010 request for a provision variance from the requirement under 35 Ill. Adm. Code 223.205(a)(5)(A) for its Air Wick® Freshmatic® Ultra air freshener sold in Illinois. This provisional variance allows this product to contain volatile organic material (by weight) in excess of the limit set in the rule. The 45-day provisional variance is granted until July 9, 2010.

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Public Act 93-0152 (Senate Bill 222) amended Sections 35-37 of the Illinois Environmental Act (415 ILCS 5/5(b) (2002)) so that provisional variances are issued by the Illinois Environmental Protection Agency (IEPA). If the IEPA grants a provisional variance, then the IEPA must file a copy of its written decision with the Board. The Board must maintain copies of the provisional variances for public inspection. Copies of provisional variances can be obtained by contacting the Clerk's Office at (312) 814-3620, or by visiting the Board's Website at www.ipcb.state.il.us. If the IEPA denies a provisional variance request, then the applicant may initiate a proceeding with the Board for a full variance.

Calendar

6/3/10 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
6/8/10 11:00 AM	AC 09-40	<u>IEPA v. Thomas and Valerie Hill (IEPA File No. 51-09-AC)</u>	Union County Courthouse First Floor Attorney Conference Room 309 W. Market Street Jonesboro
6/17/10 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
6/29/10 9:00 AM	R8-09(B)	<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 (Disinfection Necessary to Meet Use Designations?)</u> <u>(Continues until complete or through June 30, 2010)</u>	Michael A. Bilandic Building Room N-505 160 N LaSalle Chicago
7/1/10 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
7/8/10 10:00 AM	PCB 10-83	<u>Village of Morton v. IEPA</u>	Police Department Training Room 375 W. Birchwood Morton
7/15/10 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
7/15/10 1:00 PM	R10-09	<u>In the Matter of: Financial Assurance Instruments—Renewal and Terms: Amendments to 35 Ill. Adm. Code 807.Subpart F, 810.104 and 811.Subpart G</u>	James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago
8/5/10 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago

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Class III Groundwater Final Listing Notice

Armin Krueger Class III Special Resource Groundwater Final Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a final listing of Armin Krueger Speleological Area, which is 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 (GCA) is 5.38 square miles of karst landscape stretching westward from the nature preserve, determined by Ozark Underground Laboratory, using dye-trace methods.

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 a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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 Final Listing Notice

The Illinois EPA requests a final listing of Bluff Spring Fen, which is a 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 GCA 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 a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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.

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Illinois Beach Class III Special Resource Groundwater Final Listing Notice

The Illinois EPA requests a final listing of Illinois Beach, which is a 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 GCA for this preserve extends 2.6 square miles to the west, estimated using an adjusted surface water 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 a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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 Final Listing Notice

The Illinois EPA requests a final listing of Volo Bog, which is a 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 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 a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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 Final Listing Notice

The Illinois EPA requests a final listing of Braidwood Dunes, which is a DNP, and the area that contributes to the DNP, as Class III: Special Resource Groundwater. Braidwood Dunes and Savanna Nature Preserve are 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 GCA is .84 square miles that extends

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slightly south of the DNP. The GCA was estimated using site-specific regional GCA data from Conestoga Rovers & Associates, July 2007.

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 a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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 Final Listing Notice

The Illinois EPA requests a final listing of Lake-In-The-Hills Fen, which is a 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, the 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 GCA is 6.8 square miles extending northwest of the preserve, estimated by merging regional CGA 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 a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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 Final Listing Notice

The Illinois EPA requests a final listing of Lockport Prairie, which is a 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 35 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 Section 22, 27 and 28 of Township 36 North, Range 10 East of the Third Principal Meridian. The final GCA for Lockport Prairie is 5.3 miles stretching from the northwest, constructed by combining regional GCA 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

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by the Illinois EPA. The Illinois EPA is required to review a written request to list a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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 Final Listing Notice

The Illinois EPA requests a final listing of Romeoville Prairie, which is a 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 Stated 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 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 a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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 Final Listing Notice

The Illinois EPA requests a final listing of Elizabeth Lake, which is a 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 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.

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 a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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.

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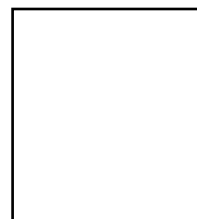
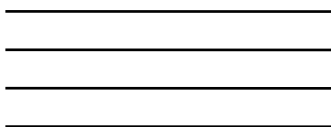
Environmental Register Comment Card

Lined area for writing comments, consisting of 18 horizontal lines.

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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Environmental Register Coordinator
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Environmental Register

December 2009 - Number 666

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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

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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

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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.

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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 Pruium and Robert Pruium</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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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 Pruiem and Robert Pruiem</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

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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

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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

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Environmental Register – December 2009

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.

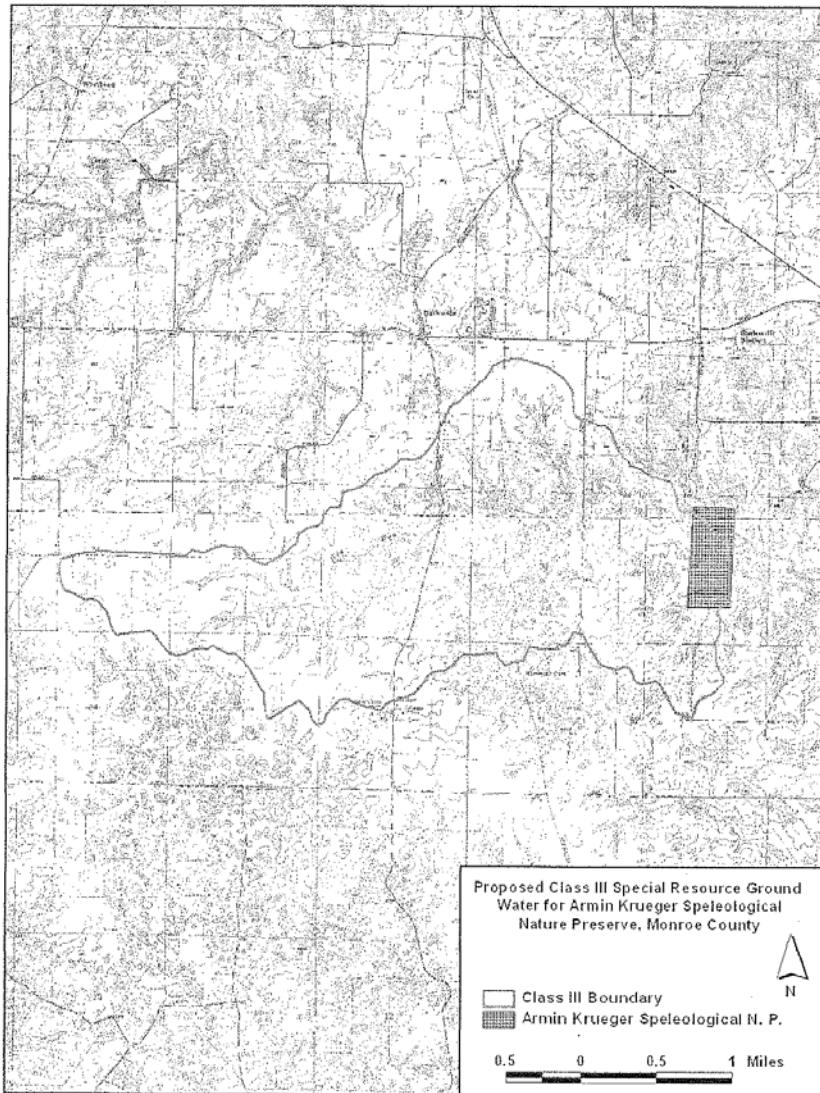
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

EXHIBIT 1

Armin Krueger Speleological Area Class III Designation Proposal

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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)



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EXHIBIT 2

Bluff Spring Fen

Class III Designation Proposal

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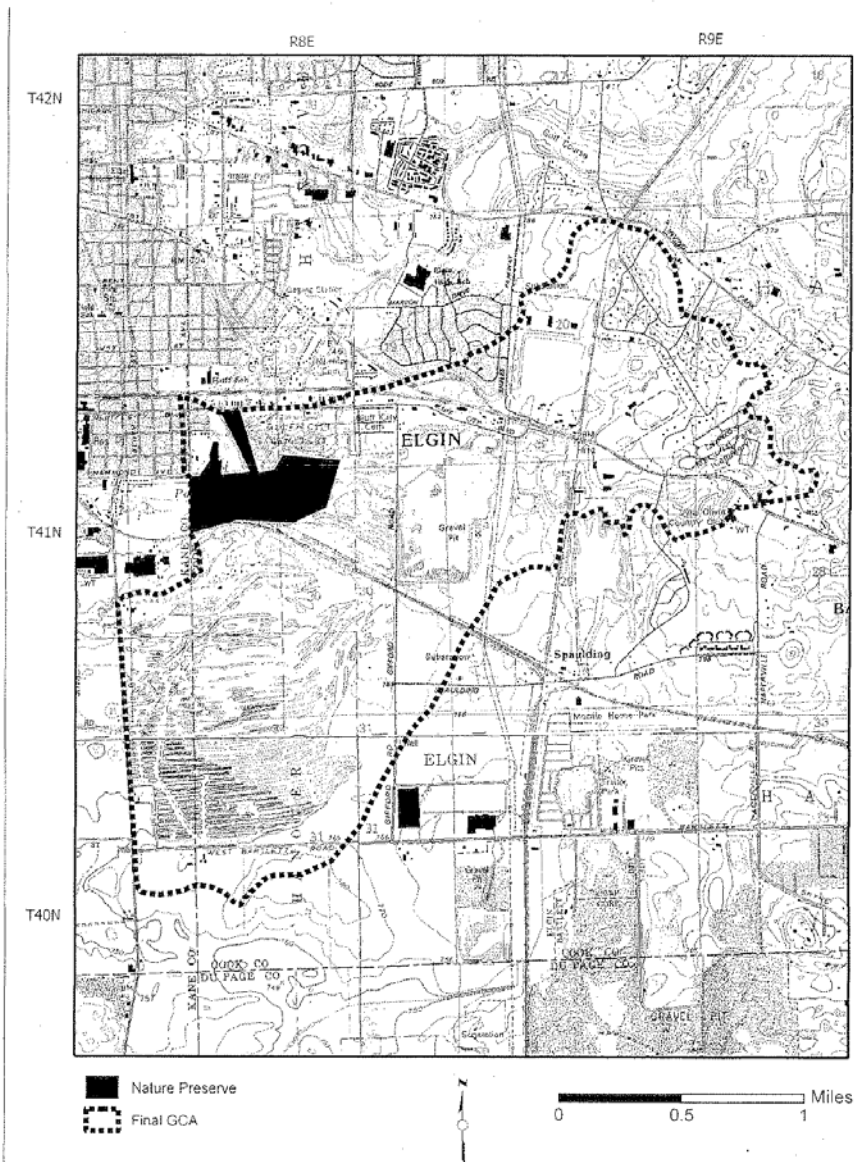


Figure 2. Bluff Spring Fen Nature Preserve and final GCA modified from Locke et al. (2005) superimposed on a USGS 1:24,000 digital raster graphic showing local topography.

EXHIBIT 3

Illinois Beach

Class III Designation Proposal

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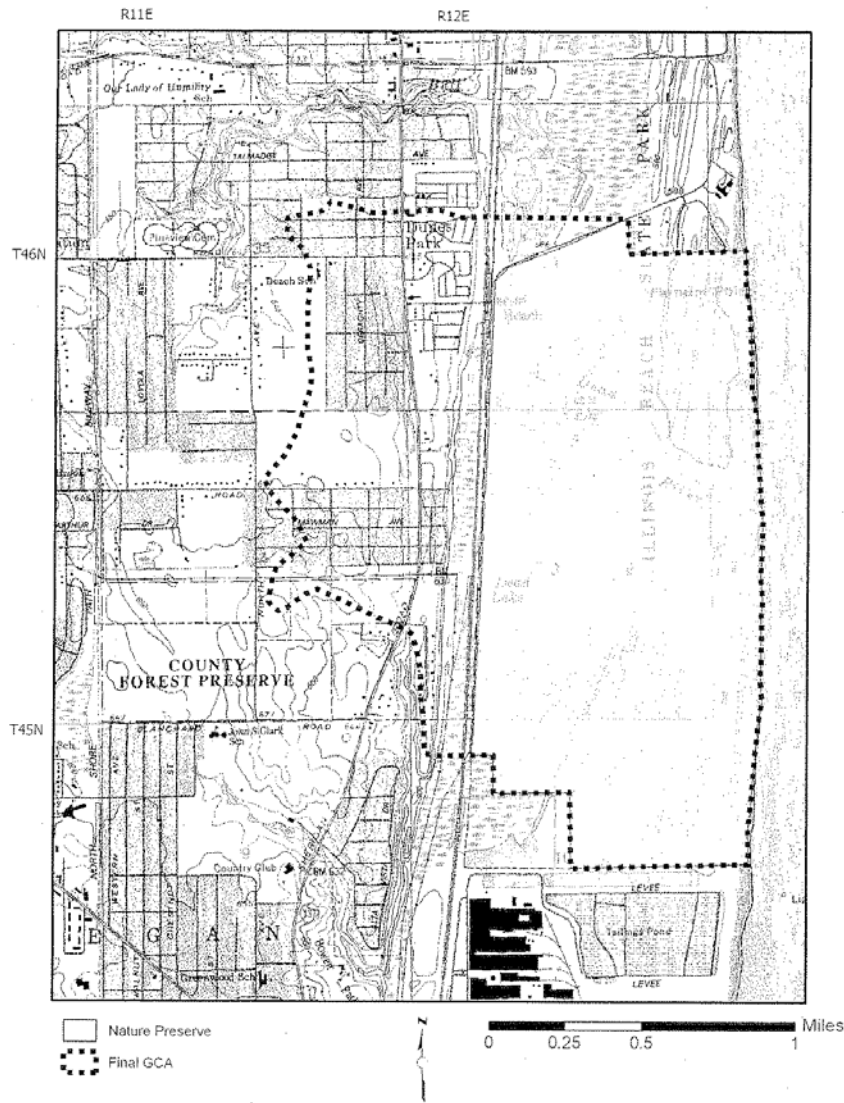


Figure 3. Final GCA for Illinois Beach Nature Preserve superimposed on a USGS 1:24,000 digital raster graphic.

EXHIBIT 4

Volo Bog

Class III Designation Proposal

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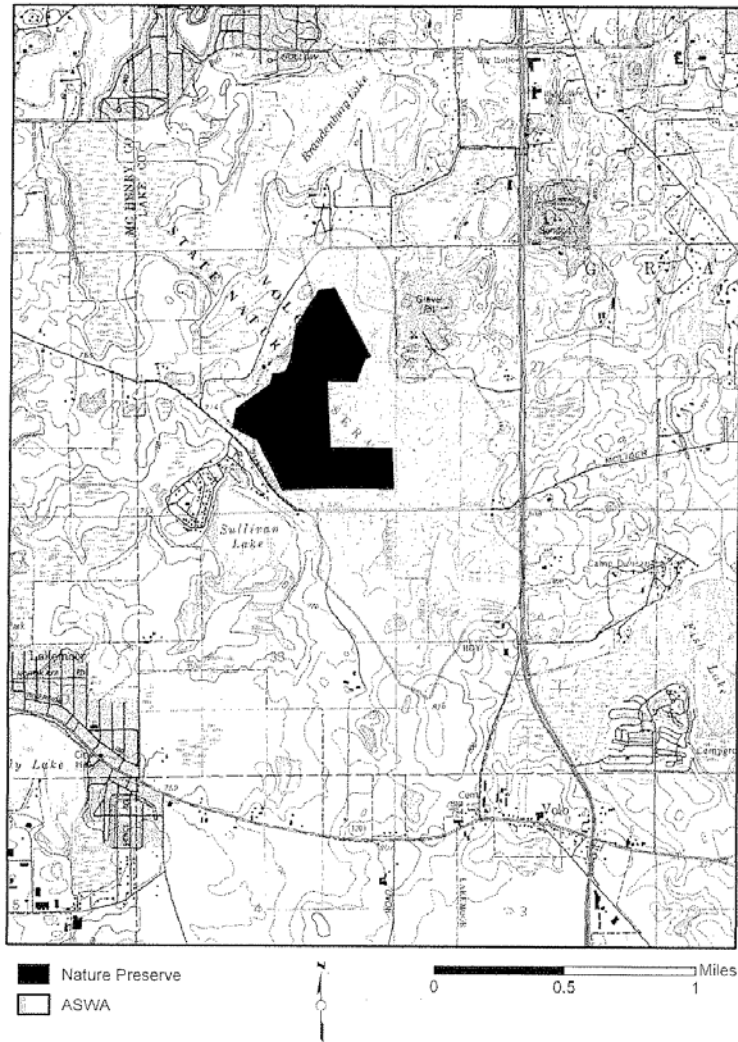


Figure 2. Location of Volo Bog Nature Preserve and its Adjusted Surface Watershed Area (ASWA) superimposed on a USGS 1:24,000 digital raster graphic showing local topography.

EXHIBIT 5

Braidwood Dunes and Savanna Class III Designation Proposal

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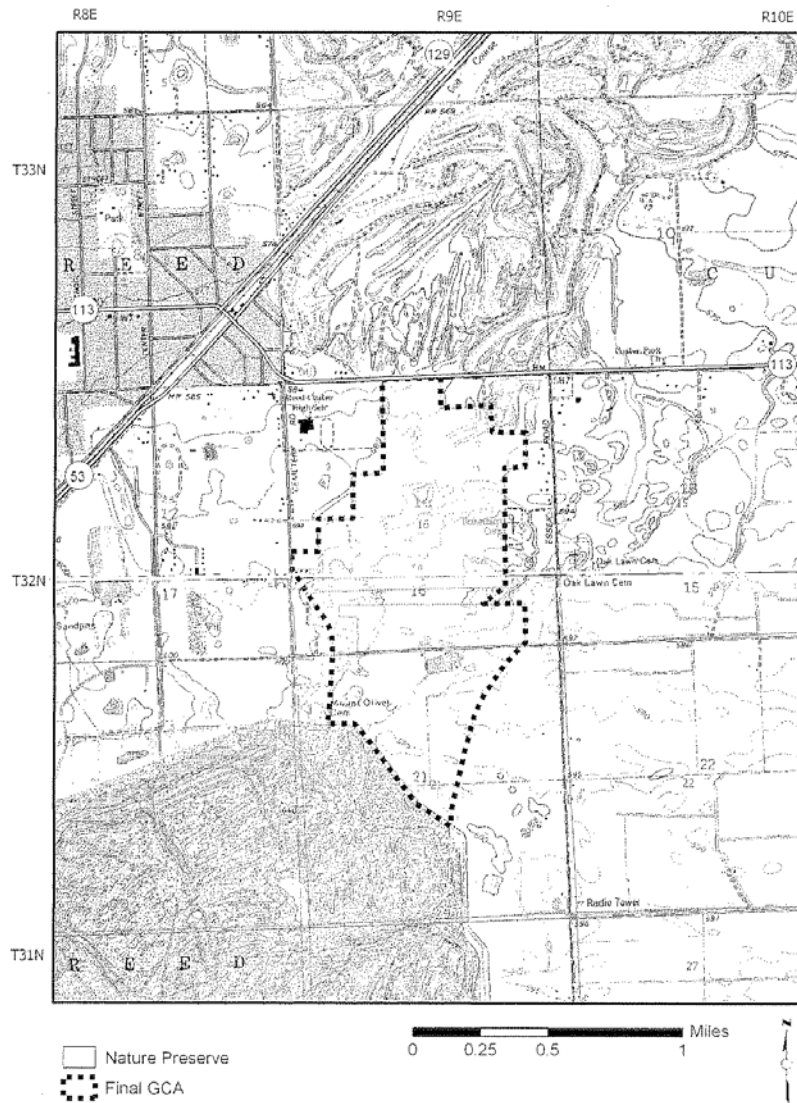


Figure 5. Final GCA for Braidwood Dunes and Savanna Nature Preserve, Will County, Illinois.

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EXHIBIT 6

Lake In The Hills Fen

Class III Designation Proposal

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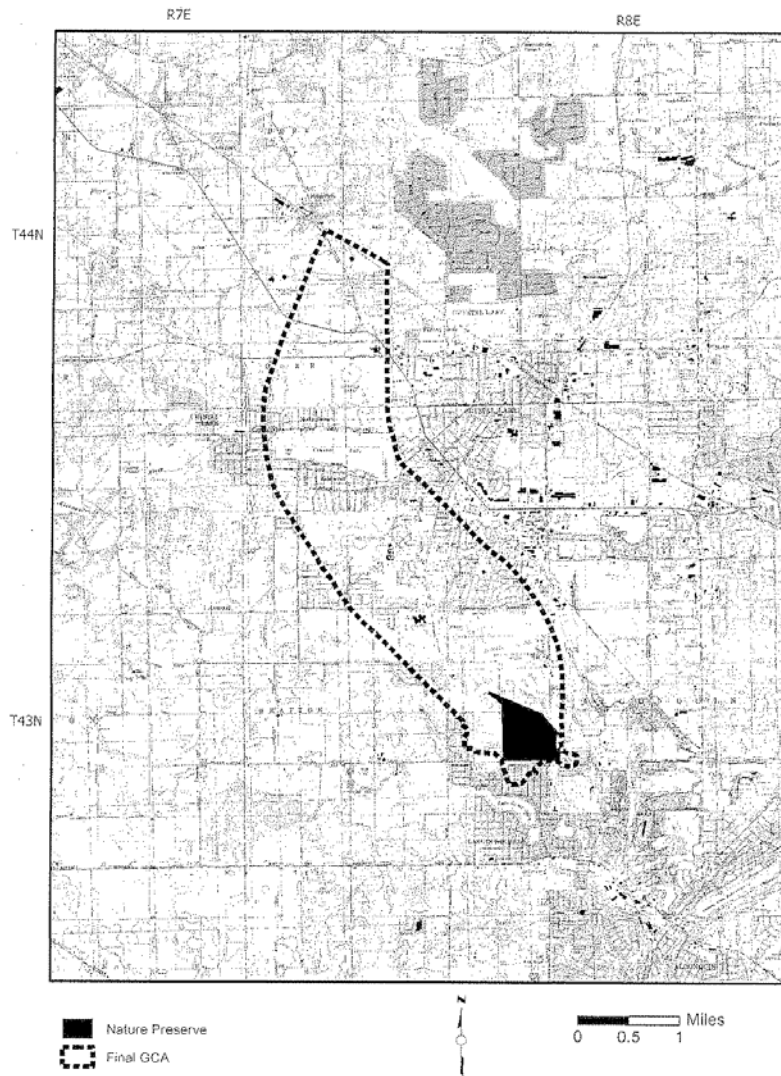


Figure 4. Lake in the Hills Fen Nature Preserve and final GCA modified from Locke et al. (2005) superimposed on a USGS 1:24,000 digital raster graphic showing local topography.

EXHIBIT 7

Lockport Prairie

Class III Designation Proposal

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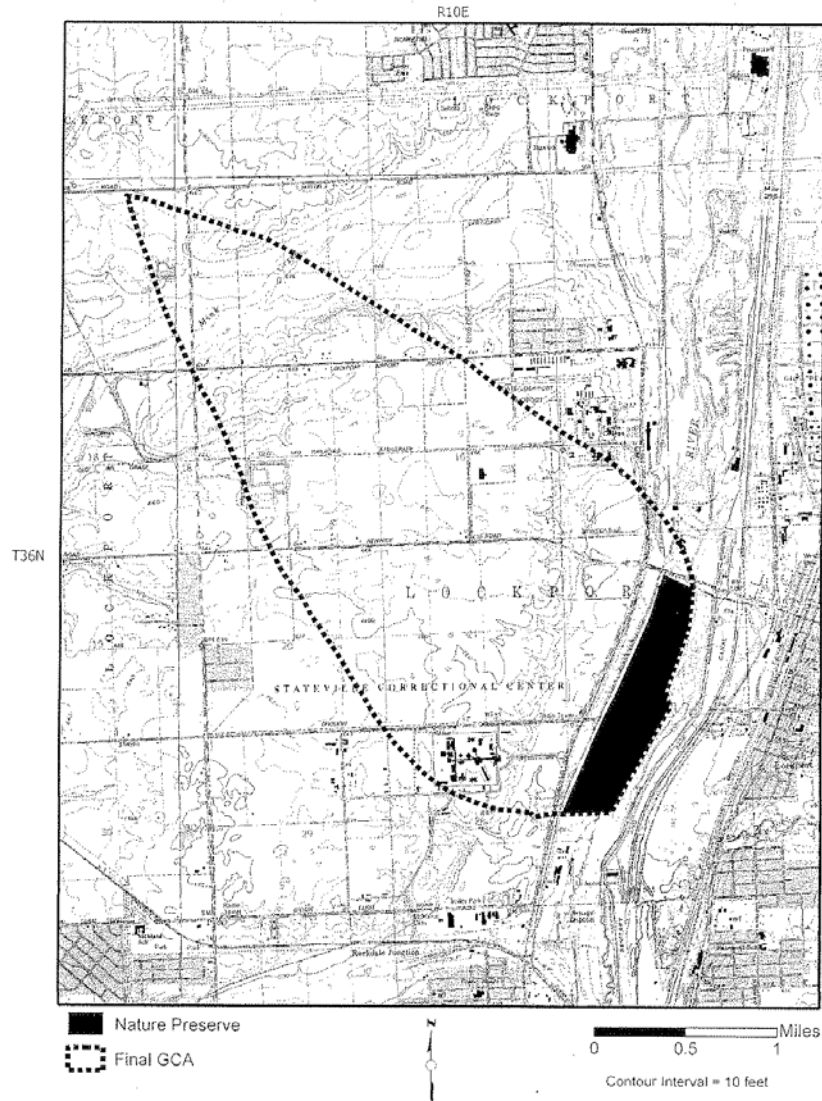


Figure 3. Lockport Prairie Nature Preserve and final GCA from Locke et al. (2005) superimposed on a USGS 1:24,000 digital raster graphic showing local topography.

EXHIBIT 8

Romeoville Prairie

Class III Designation Proposal

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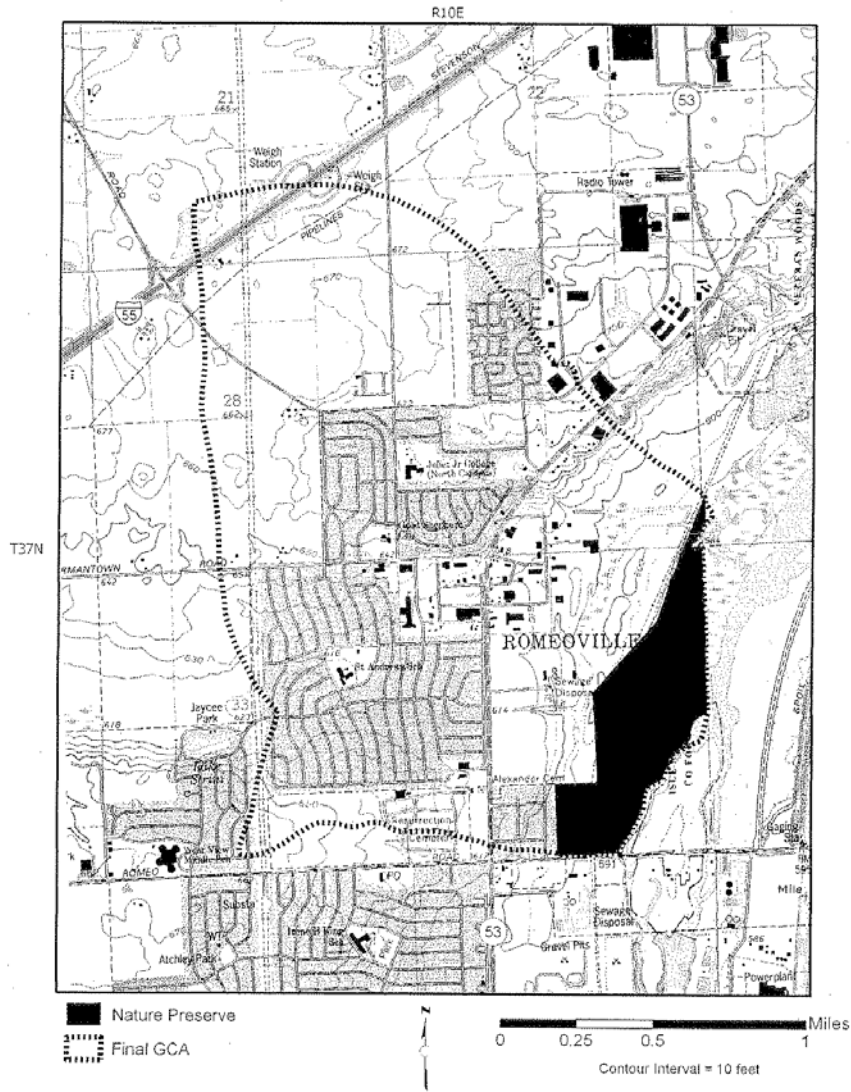


Figure 4. Romeoville Prairie Nature Preserve and final GCA from Locke et al. (2005) superimposed on a USGS 1:24,000 digital raster graphic.

EXHIBIT 9

Elizabeth Lake

Class III Designation Proposal

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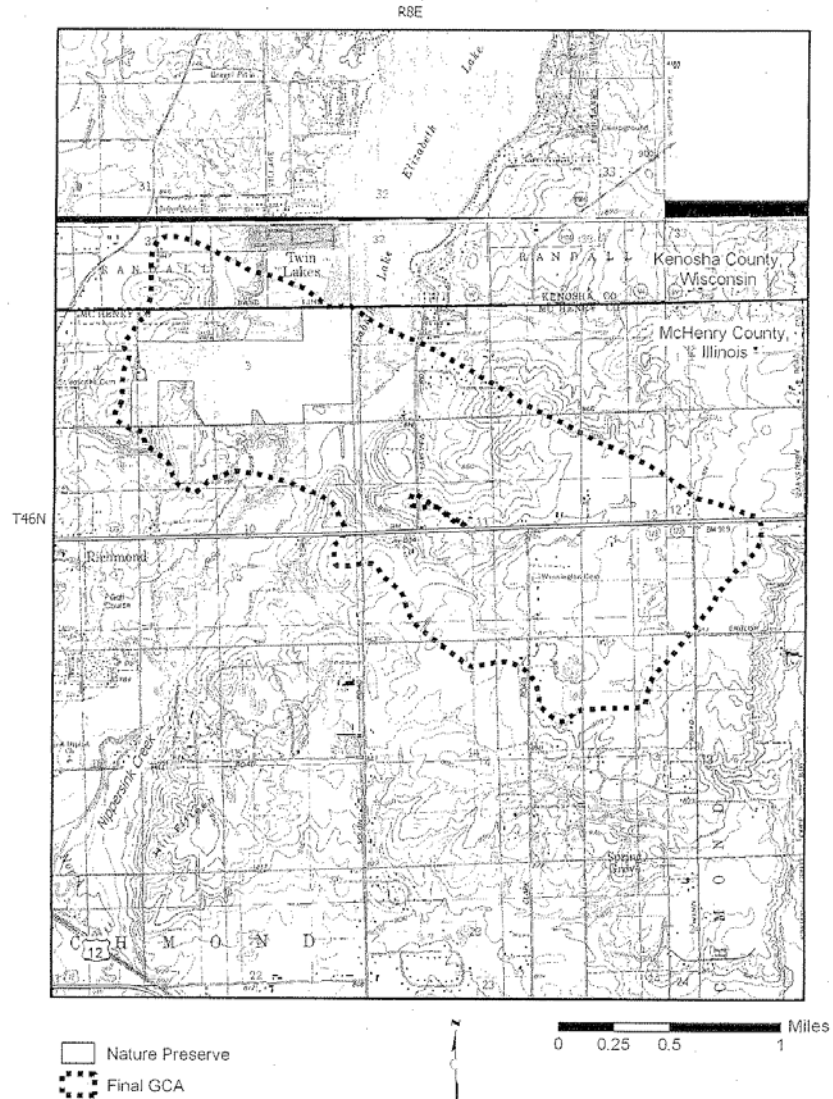
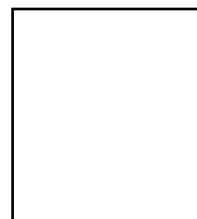
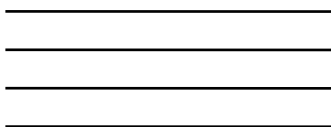


Figure 5. Final GCA for Elizabeth Lake Nature Preserve superimposed on a USGS 1:24,000 digital raster graphic.

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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Environmental Register Coordinator
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Environmental Register

December 2005 - Number 618

The Environmental Register is a Publication of the Illinois Pollution Control Board

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Letter from the Chairman

Phil Novak retired as Chairman of the Board, effective December 1, 2005. We are grateful for Phil's steady hand at the helm as the Board adjusted to reduced budget and staffing levels, including the reduction of the Board from 7 to 5 members in 2003. He plans to continue as Chairman of the Illinois Clean Energy Community Foundation and will be involved in Illinois environmental policy issues for many years to come. We will miss him at the Board, but wish him success in "retirement."



Meanwhile, the Board looks forward to a full schedule of rulemaking activity in the next several months. The Board's semi-annual regulatory agenda appeared in the December 30, 2005 Illinois Register. You can also view and download the agenda from the Board's Web site, <http://www.ipcb.state.il.us>. In addition to our many on-going rulemakings listed on the website, we expect some new rulemakings in the near future. The proposals summarized below won't necessarily be filed during the first half of the calendar year, and the Board may take up other proposals, but the Board expects to begin considering the following issues in the next six months.

The Illinois Environmental Protection Agency (IEPA) expects in the spring or summer of 2006 to submit a rulemaking proposal addressing groundwater quality. The IEPA indicates that it will address contaminants of concern that have been commonly detected in Illinois' groundwater. One such constituent is perchlorate, a rocket fuel component that has been discovered in Illinois' groundwater. Another constituent that may be included in the rulemaking proposal is ammonia. Also, the IEPA has evaluated contaminants commonly detected in groundwater in association with solid waste and Resource Conservation and Recovery Act (RCRA) sites. Groundwater standards are being developed for approximately 48 contaminants that have been commonly detected in groundwater at these sites where cleanup objectives have been developed under Tiered Approach to Corrective Action Objectives (TACO). Finally, radium 226, radium 228, and arsenic have had new Maximum Contaminant Levels (MCLs) adopted. Radium and arsenic occur with some frequency in Illinois' groundwater, and the IEPA will propose a groundwater standard amendment consistent with the MCL for each element.

The IEPA is developing a rulemaking proposal to implement P.A. 94-314. This legislation includes a requirements that the IEPA "evaluate the Pollution Control Board's rules and propose amendments to the rules as necessary to require potable water supply well surveys and community relations activities where such surveys and activities are appropriate in response to releases of contaminants that have impacted or may impact offsite potable water supply wells." Well survey requirements are expected to establish minimum standards and requirements to ensure that wells are accurately identified and located so that the impact or potential impacts of soil or groundwater contamination can be identified. The rules will regularize communication between the person performing the remediation and community members who may be affected by groundwater contamination migrating from the site where a release occurred.

The IEPA also expects during the spring or summer of 2006 to file a rulemaking proposal to address mercury emissions from coal-fired electric generating units. Given the level of current publicity for mercury issues, we can expect this rulemaking to generate considerable public interest.

As always, the Board invites you to take part in all of these proceedings and assist in making sound environmental policy for the people of our state.

Sincerely,

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

G. Tanner Girard, Ph.D.
Acting Chairman

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Federal Update

United States Environmental Protection Agency Proposes Revisions to the Compliance Dates for the National Pollutant Discharge Elimination System Permit Regulations and the Effluent Limitation Guidelines for Concentrated Animal Feeding Operations Under the Clean Water Act

On December 21, 2005 (70 Fed. Reg. 75771) the United States Environmental Protection Agency (USEPA) proposed amendments to revise the compliance dates for National Pollutant Discharge Elimination System (NPDES) permit regulations and the Effluent Limitations Guidelines and Standards (ELGs) for Concentrated Animal Feeding Operations (CAFOs).

In this action, USEPA proposed to extend certain compliance dates in the NPDES permitting requirements (40 CFR part 122) and ELGs (40 CFR part 412) for CAFOs in conjunction with USEPA's efforts to respond to the order issued by the Second Circuit Court of Appeals in Waterkeeper Alliance et al. v. EPA, 399 F.3d 486 (2nd Cir. 2005). USEPA stated that the purpose of the proposed rule is to address timing issues associated with the USEPA's response to the Waterkeeper decision.

The proposal would change three compliance dates:

- 1) USEPA is proposing to extend the date by which operations defined as CAFOs as of April 14, 2003, who were not defined as CAFOs prior to that date, must seek NPDES permit coverage. The extension changes the date from February 13, 2006 to March 30, 2007.
- 2) USEPA is also proposing to amend the date by which operations that become defined as CAFOs after April 14, 2003, due to operational changes that would not have made them a CAFO prior to April 14, 2003, and that are not new sources, must seek NPDES permit coverage, from April 13, 2006 to March 30, 2007.
- 3) Finally, USEPA is proposing to extend the deadline by which CAFOs are required to develop and implement nutrient management plans (NMPs), from December 31, 2006, to March 30, 2007. This proposal would revise all references to the date by which NMPs must be developed and implemented currently in the 2003 CAFO rule.

USEPA stated that it would also be issuing a proposed rule to revise the 2003 CAFO regulations more broadly in order to address the Second Circuit Court of Appeals decision in a subsequent *Federal Register* Notice, which the USEPA plans to propose for public comment in early 2006.

Comments on this proposed action must be received on or before January 20, 2006. Comments should be identified by Docket ID No. EPA-HQ-OW-2005-0036, and can be submitted by one of the following methods:

- (1) <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- (2) E-mail: ow-docket@epa.gov, Attention Docket ID No. EPA-HQ-OW-2005-0036.
- (3) Mail: Send the original and three copies of comments to: Water Docket, Environmental Protection Agency, Mail code 4203M, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OW-2005-0036.

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For further information contact Kawana Cohen, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-2345, e-mail address: cohen.kawana@epa.gov.

The Board has not yet received a proposal from the Illinois Environmental Protection Agency (IEPA) implementing the CAFO regulations in Illinois. The Board's current agriculture-related pollution rules are codified at 35 Ill. Adm. Code 500 *et seq.*, while its general water pollution control rules are codified at 35 Ill. Adm. Code 300 *et seq.* Both sets of current rules may be affected by the federal CAFO rules. The Board anticipates that portions of the federal program may be proposed to the Board by the IEPA as federally required rules under Section 28.2 of the Act (415 ILCS 5/28.2(2004)). Additionally, the IEPA may possibly propose portions of the federal program under the general rulemaking authority of the Act (415 ILCS 5/27 & 28 (2004)).

United States Environmental Protection Agency Proposes Amendments to the Renewable Fuel Standard Requirements Under the Energy Policy Act of 2005

On December 30, 2005 (70 Fed. Reg. 77351) the United States Environmental Protection Agency (USEPA) proposed amendments to the renewable fuel standards under the Renewable Fuel Program.

In this rulemaking, USEPA is proposing to interpret and clarify the 2006 default standard applicable under the Renewable Fuel Program set forth in the Energy Policy Act of 2005. The Act requires that 2.78 volume percent of gasoline sold or dispensed to consumers in the U.S. in 2006 be renewable fuel if USEPA does not promulgate comprehensive regulations to implement the Renewable Fuel Program by August 8, 2006. USEPA stated that, given the short timeframe available and the need to provide certainty to the regulated community, it is proposing a limited set of regulations for the default standard for 2006 that will provide for collective compliance by refiners, blenders, and importers to meet the 2.78 volume percent requirement, with compliance determined by looking at the national pool of gasoline sold in 2006. USEPA further stated that it intends to develop and promulgate the comprehensive program subsequent to this action.

Comments must be received on or before January 30, 2006. Comments should be identified by Docket ID No. OAR-2005-0161, and should be submitted by one of the following methods:

- 1) <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- 2) E-mail: macallister.julia@epa.gov
- 3) Fax: (734) 214-4816.
- 4) Mail: U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Ave., NW., Room B108, Mail Code 6102T, Washington, DC 20460, Attention Docket ID No. OAR-2005-0161.

For further information contact Julia MacAllister, U.S. EPA, National Vehicle and Fuel Emissions Laboratory, 2000 Traverwood, Ann Arbor, MI 48105; Telephone (734) 214-4131, FAX (734) 214-4816, E-mail macallister.julia@epa.gov.

The Board expects that the Illinois Environmental Protection Agency would propose amendments to the Board's regulations in a future rulemaking if any changes should be necessary as a result of this proposed rulemaking.

Rule Update

Board Adopts Second Notice Opinion and Order in Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed new 35 Ill. Adm. Code 734) (R04-22/R04-23 (cons.)).

On December 1, 2005, the Board adopted a second notice opinion and order in Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed new 35 Ill. Adm. Code 734) (R04-22/R04-23 (cons.)). The Board received 63 comments and a request for an additional downstate hearing on its first

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notice proposal, published in the *Illinois Register* on March 11, 2005 at 29 Ill. Reg. 3538 and 3705. The Board's responses to the comments filed during first notice are summarized below. An additional hearing was held in this rulemaking on July 27, 2005, in Carbondale. The Board has sent the rulemaking, pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2004)), to the Joint Committee on Administrative Rules (JCAR) for its review at the January 18, 2006 JCAR meeting.

The Board made significant changes, in response to the testimony and comments, to its first notice opinion and order. The second notice proposal differs from the first notice proposal in one major aspect. That difference is in the rule for handling of reimbursement of professional consulting services, which the Board has amended in response to public comment at second notice to allow for reimbursement on a time and materials basis. The Board also opened a subdocket B, explained later in more detail, to handle "scope of work" issues. For ease of reference here, the rules sent to JCAR for second notice will be called the "Docket A rules"

Board Changes In Response to Public Comments in Docket A Rules

The following is a general listing of the categories of issues that were raised during first notice in the Docket A rules:

1. General issues (consisting of comments that were not specific in nature but rather related to the overall rulemaking process);
2. Professional Consulting Services (Section 732.845/734.845);
3. Maximum payment rates in Subpart H;
4. An Illinois Environmental Protection Agency (IEPA) database;
5. The IEPA review process;
6. The applicability section (Section 732.100/734.100);
7. Alternative technology (Section 732.407/734.340);
8. Tier 2 TACO cleanup objectives and groundwater ordinances (Section 732.408/734.410 and 732.606(ff)/734.630(cc));
9. Eligibility of costs incurred after issuance of an No Further Remediation letter (Section 732.601(j)/734.605(j) and 732.606(kk)/734.630(gg));
10. Handling Charges (Section 732.606(ss)/734.630(oo) and Section 732.601(b)(10)/734.605(b)(10));
11. Auditing provisions (Section 732.614/734.665);
12. Maximum payment amount for abandonment and removal of tanks (Section 732.810/734.810);
13. Mobilization charges for drill rigs (Section 732.820/734.820);
14. Soil Removal and Disposal (Section 732.825/734.825)
15. Drum disposal (Section 732.830/734.830);
16. Maximum payment amounts for concrete, asphalt, and paving (Section 732.840/734.840);
17. Bidding of professional services (Section 732.855/734.855)
18. The economic impact of the rulemaking;
19. Miscellaneous (consisting of specific, less substantive, comments on specific subsections).

The comments are summarized in detail, as are the Board's analyses and responses to them, in the Board's 79-page second notice opinion supporting the 234-page second notice rule text.

Some of the other more significant changes include allowing for reimbursement of handling charges for a subcontractor if the primary contractor has a financial interest in the subcontractor, removing professional services from eligibility for bidding, adding an additional member - appointed by members of Professionals of Illinois for the

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Protection of the Environment (PIPE) to the LUST advisory committee, deleting the requirement that engineers or geologists maintain records to be available for an IEPA audit (that requirement is now limited to the maintenance of records by the owner or operator), and adding a requirement for the Board to publish the results of the IEPA's triennial review of reimbursement rates in the Board's publication, the *Environmental Register*.

The Board also determined that some changes requested by the participants were not necessary or supported by the record. Some of those suggestions include adding mobilization charges for drill rigs and adjusting maximum payment amounts for abandonment and removal of tanks. Another suggested change that the Board did not make, after finding that the record did not support it, was to add a requirement to the rules that would require that the IEPA maintain a database of payments to track reimbursement rates.

The Board did not make changes suggested in comments to establish unpublished "expedited" rates that would serve as maximum or threshold rates for reimbursement. The Board found that it cannot adopt a procedure that allows for development of a standard of general applicability outside the procedures of the Act and the Illinois Administrative Procedure Act, because that procedure would be a violation of both statutes.

The comments on the Board's decision at first notice to limit reimbursement to Tier 2 TACO standards generally reflected concerns that remediation to a Tier 2 TACO level would limit future potential uses of the property. The Board concluded that nothing in the Act requires that costs necessary to increase salability, value or future use are reimbursable. Therefore, the Board found that use of Tier 2 TACO and groundwater ordinances as institutional controls are consistent with the provisions of the Act and the suggested changes were not warranted.

The Board decided that the rule, as proposed for second notice, is economically reasonable and technically feasible. The Board further found that any negative economic impact would be minimized by removal of the professional service lump sum payments to subdocket B.

Opening of Docket B Announced

In addition to amending its original proposal to reimburse professional consulting services on a time and materials basis, the Board also opened a subdocket B. A primary purpose of Docket B will be developing scopes of work to be used in reimbursing professional consulting services in the remediation of underground storage tank (UST) sites in Illinois. A common theme in the public comments was the lack of a clearly defined scope of work for the reimbursement rates of professional services; this was the basis of many claims that the rules would cause undue economic hardship for the environmental consultants and the small businesses served. Subdocket B will also examine issues surrounding the hourly payment amounts and hours of work for professional services.

The Board expects to adopt a proposal for public comment in January 2006. The Board will hold at least one additional hearing on the language proposed for public comment before proceeding to first notice with any appropriate rule.

Copies of the Board's opinion and order in R04-22/23 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Marie Tipsord at 312/ 814-4925; email address tipsordm@ipcb.state.il.us.

Board Accepts Site-Specific Proposal for Hearing in Proposal of Vaughan and Bushnell Manufacturing Company of Amendments to a Site Specific Rule 35 Ill. Adm. Code 901.121 (R06-11)

On December 1, 2005, the Board accepted for hearing a proposal filed by the Vaughan and Bushnell Manufacturing Company (V&B) in Proposal of Vaughan and Bushnell Manufacturing Company of Amendments to a Site Specific Rule 35 Ill. Adm. Code 901.121 (R06-11) to amend the Board's noise regulations. The Board is in the process of scheduling a hearing in this site-specific rulemaking.

V&B seeks to amend its current site-specific rule codified at 35 Ill. Adm. Code 901.121. The current rule limits V & B's operating hours, and the company wants to begin around-the-clock operation of its forging facility located at the intersection of Davis and Main Streets, Bushnell in McDonough County. V&B manufactures striking tools, and owns and operates a forging shop built in 1940 in Bushnell (facility). The proposal filed by V&B states that the facility consists of ten drop hammers capable of producing up to 2,500 lbs. of force in the production of striking

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tools. The facility is V&B's primary production facility, and is located in an area of Bushnell that is primarily industrial. V&B is the largest employer in Bushnell, currently employing 230 people.

The proposed extension of the facility's operating hours would allow V&B to operate a third shift. V&B stated that currently the land uses in the immediate area are generally heavy industrial, and that the extension of the operating hours would not have an adverse effect on its neighbors.

Copies of the Board's opinion and order in R06-11 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact John Knittle at 217/ 278-3111; email address knittlej@ipcb.state.il.us.

Board Accepts Proposal for Hearing in Clean Construction or Demolition Debris Fill Operations Under P.A. 94-272 (35 Ill. Adm. Code Part 1100) (R06-19)

On December 1, 2005, the Board accepted a proposal for hearing in Clean Construction or Demolition Debris Fill Operations Under P.A. 94-272 (35 Ill. Adm. Code Part 1100) (R06-19). The proposal, filed by the Illinois Environmental Protection Agency (IEPA) on November 21, 2005, seeks to add a new Part to the Board's regulations governing the use of clean construction or demolition debris (CCDD) as fill material in current and former quarries, mines, and other excavations. Under the statutory timeframes of P.A. 94-272, the Board must adopt final rules no later than September 1, 2006.

The proposal, based on statutory changes adopted in P.A. 94-272, sets forth standards for the operation of CCDD fill facilities, as well as establishing procedures for the submission and review of permits for these facilities. Some of the areas addressed in the amendments include public notification requirements, prohibitions on certain activities, operating standards, and requirements for closure and post closure maintenance of the facility.

The Board has scheduled hearings in this rulemaking for January 26, 2006, in Chicago and March 1, 2006, in Springfield.

Copies of the Board's opinion and order in R06-19 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Amy Antonioli at 312/ 814-3665; email address antonioa@ipcb.state.il.us.

Board Adopts Second Notice Opinion and Order in Revisions to Radium Water Quality Standards: Proposed New 35 Ill. Adm. Code 302.307 and Amendments to 35 Ill. Adm. Code 302.207 and 302.525 (R04-21)

On December 15, 2005, the Board adopted a second notice opinion and order in Revisions to Radium Water Quality Standards: Proposed New 35 Ill. Adm. Code 302.307 and Amendments to 35 Ill. Adm. Code 302.207 and 302.525 (R04-21). In response to the 13 public comments received after publication of the Board's second first notice proposal (published on April 29, 2005 at 29 Ill. Reg. 5873), the Board made substantive changes to its proposal. The Board has sent the rulemaking, pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2004)), to the Joint Committee on Administrative Rules (JCAR) for its review at the January 18, 2006 JCAR meeting.

Summary of First Notice to Second Notice Changes

The Board will not repeat the lengthy history of this rulemaking here. See the April 2005 issue of the *Environmental Register*. In brief summary, at first notice in 2004, the Board adopted the proposal filed by the Illinois Environmental Protection Agency (IEPA). At second first notice in 2005, the Board proposed a general use water quality standard of 3.75 picocuries per liter (pCi/L) radium 226 and 228 combined (combined radium) applicable to all general use waters of the State. In addition, the Board proposed a general use water quality standard of 30 pCi/L combined radium applicable to waters receiving discharge from publicly owned treatment works (POTWs). The 30 pCi/L standard applied from the point of discharge to one mile downstream of the discharge outfall and was incorporated as a new Section 302.207(d).

In its December 15, 2005 second notice opinion and order, the Board amended the general use water quality standard for combined radium 226 and 228. The Board retained the proposed standard of 3.75 pCi/L combined

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radium 226 and 228, but set the standard as an annual average value, rather than an instantaneous maximum standard, as proposed in the 2005 first notice. This standard, as before, applies to all general use waters of the State, including stream segments that receive discharge from POTWs, as well as the Lake Michigan Basin. In addition, the Board eliminated the separate water quality standard of 30 pCi/L adopted at second first notice for stream segments that receive discharges from POTWs. Finally, the Board adopts a 5pCi/L combined radium 226 and 228 standard for Public and Food Processing Water Supplies as an instantaneous maximum standard for public and food processing water supply intakes.

In adopting the second notice proposal, the Board specifically found that “the record demonstrates a need to maintain a general use water quality standard, protective both of human health and the environment,” and that the proposal “tailor[s] the general use water quality standard for radium to the nature of radionuclides in Illinois ecosystems.”

Public Comments Received

Of the 13 persons who submitted comments, those opposing the Board’s proposal include the directors of Citizens Against Ruining the Environment (CARE), the City of Joliet (Joliet), and the Fox River Reclamation District. The following commenters rejected the proposed Section 302.207(d) and offered support for the 3.75 pCi/L standard, however, they proposed that compliance be measured as a long-term average: the United States Environmental Protection Agency (USEPA), the Sierra Club and the Environmental Law and Policy Center (Environmental Groups), WRT Environmental, and the Illinois Environmental Protection Agency (IEPA).

Comments from USEPA

In its public comment, the USEPA expressed concern that the proposal did not adequately demonstrate that 30 pCi/L within a one-mile mixing zone would provide a level of protection consistent with the 3.75 pCi/L value, nor any other independent level of protection for the designated use. The USEPA also stated it is not clear how the proposed 30 pCi/L standard would be implemented to protect possible downstream public water supply intakes. The USEPA recommended that the Board express the proposed standard as an average value over some period of time to reflect long-term exposure, rather than an instantaneous value.

Comments from CARE and the Environmental Groups

In its public comment, CARE strongly objected to the addition of Section 302.207(d) of the Board’s 2005 proposal. The Environmental Groups agreed with the USEPA’s argument that an average value radium standard is consistent with the goal not to exceed the biota dose limit of 0.1 rad/day for riparian animals.

Comments from Joliet

Joliet stated that it is unlikely that sensitive species live in the receiving streams of plants that are expected to violate the proposed standard. Further, Joliet argued that because no sensitive species live downstream of impacted treatment plants in Illinois, there is no reason to establish such a restrictive standard. For this reason, Joliet concluded that the standard of 60 pCi/L radium, proposed by the Illinois Emergency Management Agency, DNS, is appropriate. Joliet did not object to the use of an annual average, and stated that the use of the annual average would reduce the number of plants with potential violations from nine plants to between two and six.

Comments from WRT Environmental

WRT Environmental agreed with the USEPA’s comment that the proposed Section 302.207(d) provides no level of protection consistent with the designated use.

Comments from the IEPA

The IEPA favors the USEPA’s recommendation of using long-term averaging for the radium general use water quality standard.

The IEPA asserted that the Board had “removed the use of a Public and Food Processing Water Supply standard matching the USEPA’s MCL for radium in drinking water.” The IEPA recommended that the 5 pCi/L drinking water standard should remain an instantaneously applied standard applicable to drinking water intakes at all times. The IEPA concluded that of the impacted POTWs, many or most would have difficulty complying with the instantaneously applied combined standard of 3.75 pCi/L, even one mile below their discharge point as those standards are currently implemented. However, the IEPA concluded from the data submitted by Joliet that the 3.75

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pCi/L standard based on long term averaging will likely provide relief to many of the impacted dischargers in a way that is protective of the most sensitive uses of all waters of the State of Illinois. Further the IEPA recommended that the Board allow mixing in low flow streams that receive radium discharge to provide relief to a few POTWs that discharge to such streams.

After considering all of the comments, the Board retained the 3.75 pCi/L combined radium limit as a general use water quality standard for second-notice. The Board expressed that limit as an average measured over the length of a year. Therefore, while the concentration of radium 226 and 228 combined may be higher than 3.75 pCi/L at times due to environmental conditions, the Board concluded that the water body will still meet the standard as long as the concentration averaged over the period of a year remains at or below 3.75 pCi/L. Determining compliance in this way will provide relief to POTWs while more precisely tailoring the standard to meet the Board's goal of protecting riparian mammals. The Board did not incorporate the IEPA's suggestion of allowing for mixing even if the stream has a zero 7Q10 flow, finding that the IEPA did not support this portion of its proposal with evidence contained in the record. The Board determined that the proposed water quality standard expressed as an annual average provides relief for the majority of POTWs, while also protecting the most sensitive use of general use waters. As suggested by the USEPA and the IEPA, the Board also adopted a Public and Food Processing Water Supply standard of 5 pCi/L combined radium 226 and 228 to ensure that public water supplies meet the Federal drinking water maximum contaminant level for radium.

Copies of the Board's opinion and order in R04-21 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Amy Antoniulli at 312/ 814-3665; email address antonioa@ipcb.state.il.us.

Board Denies Motion to Dismiss in Proposed Site-Specific Perlite Waste Disposal Regulation Applicable to Silbrico Corporation (35 Ill. Adm. Code Part 810) (R06-8)

On December 15, 2005, the Board denied a motion, filed by the Illinois Attorney General' Office (AGO) on October 7, 2005, to dismiss the rulemaking Proposed Site-Specific Perlite Waste Disposal Regulation Applicable to Silbrico Corporation (35 Ill. Adm. Code Part 810) (R06-8).

Silbrico's proposed rule would allow it to dispose of this waste in a "clean fill construction and demolition debris" facility. Silbrico manufactures products using perlite, a volcanic rock that expands up to 20 times in size when heated. In its petition for rulemaking, Silbrico asserted that due to the inert and nonhazardous characteristics of the off-specification perlite and the fugitive perlite (collectively waste perlite), it seeks to dispose of these wastes at a "clean fill" facility that accepts only clean construction and demolition debris. Silbrico asserted that allowing the disposal of the waste perlite at a "clean fill" facility would save valuable space in municipal waste landfills and result in significant cost savings, while posing no environmental violation or threat.

In its motion, the AGO asserted that the Board's rules provide that a rulemaking petition may be dismissed for failure to comply with content requirements or for inadequacy. *See* 35 Ill. Adm. Code 102.210, 102.212. The alleged deficiencies included deficiencies in service, as well as conflict with the statutory definition of clean construction or demolition debris (CCDD) landfills under Section 3.160(b) of the Environmental Protection Act (Act), as added by P.A. 94-272, eff. July 19, 2005. The Illinois Environmental Protection Agency (IEPA) concurred with the AGO's arguments, and Silbrico opposed them.

In its order denying the motion to dismiss, the Board first found that no prejudice resulted from Silbrico's initial lack of service on the Department of Natural Resources and AGO since both have since been served, and the only substantive activity to date on this case stems from a motion to dismiss filed by the AGO itself.

The Board then noted that, since the filing of Silbrico's petition, the IEPA filed a rulemaking proposal to implement Section 3.160(b) of the Act. The Board accepted that proposal for hearing on December 1, 2005. (*See* the summary above of In the Matter of: Clean Construction or Debris Fill Operations Under PA 94-272, R06-19 (December 1, 2005)).

The Board found that it has the authority to grant Silbrico relief from the otherwise applicable requirements of its waste disposal rules. The Board was not prepared to say that it lacks the authority to adopt the rule Silbrico is proposing, since it does not attempt to reclassify its perlite waste as clean construction or demolition debris. Rather, the language first limits the regulation to the two perlite waste streams from Silbrico's Hodgkins facility, and then

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provides that “the specified waste streams may be disposed of in a ‘clean fill’ facility that accepts only ‘clean construction and demolition debris.’” The Board was not persuaded that the rule, if ultimately enacted, would constitute an unauthorized expansion of the waste exception in Section 3.160(b) of the Act.

Copies of the Board’s opinion and order in R06-8 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board’s Web site at www.ipcb.state.il.us.

For additional information contact John Knittle at 217/ 278-3111; email address knittlej@ipcb.state.il.us.

Board Actions

December 1, 2005

Via Videoconference
Chicago and Springfield, Illinois

Rulemakings

R04-22	<u>In the Matter of: Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of:</u>	4-0
R04-23 (cons.)	<u>Regulation of Petroleum Leaking Underground Storage Tanks (Proposed New 35 Ill. Adm. Code 734) – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s land pollution control regulations.</u>	R, Land
R06-11	<u>In the Matter of: Proposal of Vaughan & Bushnell Manufacturing Company of Amendment to a Site Specific Rule 35 Ill. Adm. Code 901.121 – The Board accepted for hearing petitioner’s October 20, 2005 proposal to amend the Board’s noise pollution control regulations. The Board granted petitioner’s motion to waive requirement to submit 200 signatures. The Board also requested that petitioner address the “published study or report” requirement of Section 102.210(c). 35 Ill. Adm. Code 102.210(c). See also 35 Ill. Adm. Code 102.202(k), as directed by the hearing officer.</u>	4-0 R, Noise
R06-19	<u>In the Matter of: Clean Construction or Demolition Debris Fill Operations Under P.A. 94-272 (35 Ill. Adm. Code Part 1100) – The Board accepted for hearing Illinois Environmental Protection Agency’s November 11, 2005 proposal to amend the Board’s land pollution control regulations. The Board granted petitioner’s motion to waive requirement to submit copies of material incorporated by reference as required by 35 Ill. Adm. Code 102.202(d). The Board also requested that petitioner address the “published study or report” requirement of Section 102.210(c). 35 Ill. Adm. Code 102.210(c). See also 35 Ill. Adm. Code 102.202(k), as directed by the hearing officer.</u>	4-0 R, Land

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Administrative Citations

AC 05-20	<u>IEPA v. John Groff</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$271.70 and a civil penalty of \$4,500. This order follows the Board's interim order of June 16, 2005, which found that this respondent had violated Sections 21(p)(1), (3) and (7) of the Environmental Protection Act. (415 ILCS 5/21(p)(1), (3), and (7) (2004)).	4-0
AC 05-80	<u>County of Kankakee v. South Holland Trust #10897 and John & Ella Hall</u> – The Board grants the complainant's motion to strike John R. Hall, Jr.'s July 27, 2005 letter, previously construed as a timely filed petition for review, dismissed the petition for review. The Board found John and Ella Hall violated Section 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2004)). The Board ordered respondents to pay a civil penalty of \$3,000 unless South Holland Trust and Saving had done so under the Board's August 18, 2005 order.	4-0
AC 06-13	<u>IEPA v. Lyndell Heinzmann</u> – The Board accepted for hearing this petition for review of an administrative citation against this Marion County respondent.	4-0

Motions and Other Matters

PCB 05-73	<u>City of Sullivan v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Moultrie County facility.	4-0 UST Appeal
PCB 05-192	<u>People of the State of Illinois v. Bag Makers, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a McHenry County facility, the Board ordered publication of the required newspaper notice.	4-0 A-E
PCB 05-214	<u>People of the State of Illinois v. Barry Hayden d/b/a Hayden Properties</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 St. Clair County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 06-26	<u>Telzrow Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Jersey County facility.	4-0 UST Appeal
PCB 06-78	<u>People of the State of Illinois v. North American Lighting, Inc.</u> – The Board accepted for hearing this air and water enforcement action involving a site located in Clay County.	4-0 A&W-E

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PCB 06-79	<u>People of the State of Illinois v. City of Gillespie</u> – The Board accepted for hearing this water enforcement action involving a site located in Macoupin County.	4-0 W-E
PCB 06-80	<u>People of the State of Illinois v. Fulford Construction, Inc.</u> – The Board accepted for hearing this water enforcement action involving a site located in St. Clair County.	4-0 W-E
PCB 06-81	<u>People of the State of Illinois v. Briggs, Industries, Inc.</u> – The Board accepted for hearing this air and water enforcement action involving a site located in Crawford County.	4-0 L&W-E

December 15, 2005**Chicago, Illinois****Rulemakings**

R04-21	<u>In the Matter of: Revisions to Radium Water Quality Standards: Proposed New 35 Ill. Adm. Code 302.307 and Amendments to 35 Ill. Adm. Code 302.207 and 302.525</u> – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s water quality standards.	4-0 R, Water
R06-8	<u>In the Matter of: Proposed Site-Specific Perlite Waste Disposal Regulation Applicable to Silbrico Corporation (35 Ill. Adm. Code Part 810)</u> – The Board denied the Office of the Attorney General’s motion to dismiss the proposal.	4-0 R, Land

Adjusted Standards

AS 05-7	<u>In the Matter of: Petition of Waste Management of Illinois, Inc. for an Adjusted Standard from Subpart D of 35 Ill. Adm. Code 721 and for RCRA Waste Delisting Under 35 Ill. Adm. Code 720.122 for Treatment Residual of CID Recycling and Disposal Facility Biological Liquid Treatment Center</u> – The Board denied this request for an adjusted standard from the Board’s hazardous waste regulations, finding petitioner did not provide the requested level of justification.	4-0 Land
AS 06-1	<u>In the Matter of: Petition of Lafarge Midwest, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 739.161 Pursuant to 35 Ill. Adm. Code 720.132 and 720.133</u> – The Board accepted petitioner’s amended petition for adjusted standard, and will decide the case after receipt of any amended Illinois Environmental Protection Agency recommendation or reply by petitioner.	4-0 Air

Administrative Citations

AC 06-15	<u>IEPA v. Allen Noltensmeier</u> – The Board granted complainant’s motion for voluntary dismissal of this administrative citation due to failure of timely service.	4-0
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Environmental Register – December 2005

Decisions

PCB 06-28	<u>Midwest Petroleum Company v. IEPA</u> – The Board affirmed the July 18, 2005 determination of the Illinois Environmental Protection Agency rejecting petitioner’s amended corrective action plan budget.	4-0 UST Appeal
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Motions and Other Matters

PCB 03-22	<u>People of the State of Illinois v. Saint-Gobain Containers, Inc.</u> – The Board granted complainant’s motion to stay this air enforcement action concerning a Logan County facility.	A-E
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PCB 04-106	<u>People of the State of Illinois v. Thomas Gray, an individual, Steve Whyte, an individual, Gladys Whyte, an individual</u> – The Board granted complainant’s motion to voluntarily dismiss respondents Steve Whyte and Gladys Whyte from this land enforcement action concerning a Kankakee County facility.	4-0 L-E
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PCB 06-32	<u>Beverly Bank v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Cook County facility.	4-0 UST Appeal
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PCB 06-34	<u>Ramsey C.U.S.D. #204 v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Fayette County facility.	4-0 UST Appeal
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PCB 06-36	<u>People of the State of Illinois v. Magellan Pipeline Company, L.P.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Lee County facility, the Board ordered publication of the required newspaper notice.	4-0 L-E
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PCB 06-38	<u>Downtown Shell (Greenville) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Bond County facility.	4-0 UST Appeal
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PCB 06-50	<u>E&L Trucking Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	4-0 UST Appeal
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PCB 06-54	<u>People of the State of Illinois v. Webb AG, Inc.</u> – The Board granted complainant’s motion for voluntary dismissal of Count II.	4-0 L-E
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PCB 06-82	<u>People of the State of Illinois v. Barger Engineering, Inc.</u> – The Board accepted for hearing this water enforcement action involving crude oil and salt water release at a site located in White County.	4-0 W-E
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PCB 06-83	<u>People of the State of Illinois v. Levi A. Kaufman</u> – The Board accepted for hearing this land enforcement action involving a site located in Coles County.	4-0 L-E
PCB 06-84	<u>Cowden Oil 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 Shelby County facility.	4-0 UST Appeal 90-Day Ext.
PCB 06-85	<u>Prosise Oil Company (Incident #922355) 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 Jefferson County facility.	4-0 UST Appeal 90-Day Ext.
PCB 06-86	<u>Prosise Oil Company (Incident #982486) 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 Jefferson County facility.	4-0 UST Appeal 90-Day Ext.
PCB 06-87	<u>Wayne & Dennis Swanson 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 Kane County facility.	4-0 UST Appeal 90-Day Ext.
PCB 06-88	<u>Biggs Brothers Service Center 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 St. Clair County facility.	4-0 UST Appeal 90-Day Ext.
PCB 06-89	<u>Maryville Voice Newspaper Company 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 Madison County facility.	4-0 UST Appeal 90-Day Ext.
PCB 06-90	<u>People of the State of Illinois v. Village of Volo and Smith Engineering Consultants, Inc.</u> – The Board accepted for hearing this public water supply enforcement action involving a site located in Lake County.	4-0 PWS-E

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New Cases

December 1, 2005 Board Meeting

06-078 People of the State of Illinois v. North American Lighting, Inc. – The Board accepted for hearing this air and water enforcement action involving a site located in Clay County.

06-079 People of the State of Illinois v. City of Gillespie – The Board accepted for hearing this water enforcement action involving a site located in Macoupin County.

06-080 People of the State of Illinois v. Fulford Construction, Inc. – The Board accepted for hearing this water enforcement action involving a site located in St. Clair County.

06-081 People of the State of Illinois v. Briggs, Industries, Inc. – The Board accepted for hearing this air and water enforcement action involving a site located in Crawford County.

R06-019 In the Matter of: Clean Construction or Demolition Debris Fill Operations Under P.A. 94-272 (35 Ill. Adm. Code Part 1100) – The Board accepted for hearing Illinois Environmental Protection Agency's November 11, 2005 proposal to amend the Board's land pollution control regulations. The Board granted petitioner's motion to waive requirement to submit copies of material incorporated by reference as required by 35 Ill. Adm. Code 102.202(d). The Board also requested that petitioner address the "published study or report" requirement of Section 102.210(c). 35 Ill. Adm. Code 102.210(c). *See also* 35 Ill. Adm. Code 102.202(k), as directed by the hearing officer.

December 15, 2005 Board Meeting

06-082 People of the State of Illinois v. Barger Engineering, Inc. – The Board accepted for hearing this water enforcement action involving crude oil and salt water release at a site located in White County.

06-083 People of the State of Illinois v. Levi A. Kaufman – The Board accepted for hearing this land enforcement action involving a site located in Coles County.

06-084 Cowden Oil 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 Shelby County facility.

06-085 Prosize Oil Company (Incident #922355) 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 Jefferson County facility.

06-086 Prosize Oil Company (Incident #982486) 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 Jefferson County facility.

06-087 Wayne & Dennis Swanson 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 Kane County facility.

06-088 Biggs Brothers Service Center 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 St. Clair County facility.

06-089 Maryville Voice Newspaper Company 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 Madison County facility.

06-090 People of the State of Illinois v. Village of Volo and Smith Engineering Consultants, Inc. – The Board accepted for hearing this public water supply enforcement action involving a site located in Lake County.

AC 06-018 IEPA v. Maurice L. Thompson Trust – The Board accepted an administrative citation against this Fulton County respondent.

AC 06-019 IEPA v. Maurice L. Thompson Trust – The Board accepted an administrative citation against this Fulton County respondent.

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R06-012 In the Matter of: UST Update, USEPA Amendments (July 1, 2005 through December 31, 2005) – The Board reserved this docket for a routine update, to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2005 through December 31, 2005.

R06-013 In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (July 1, 2005 through December 31, 2005) – The Board reserved this docket for a routine update, to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2005 through December 31, 2005.

R06-014 In the Matter of: Definition of VOM Update, USEPA Amendments (July 1, 2005 through December 31, 2005) – The Board reserved this docket for a routine update, to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2005 through December 31, 2005.

R06-015 In the Matter of: SDWA Update, USEPA Amendments (July 1, 2005 through December 31, 2005) – The Board reserved this docket for a routine update, to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2005 through December 31, 2005.

R06-016 In the Matter of: UIC Update, USEPA Amendments (July 1, 2005 through December 31, 2005) – The Board reserved this docket for a routine update, to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2005 through December 31, 2005.

R06-017 In the Matter of: RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (July 1, 2005 through December 31, 2005) – The Board reserved this docket for a routine update, to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2005 through December 31, 2005.

R06-018 In the Matter of: RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2005 through December 31, 2005) – The Board reserved this docket for a routine update, to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is July 1, 2005 through December 31, 2005.

R06-020 In the Matter of: Proposed Amendments to the Board’s Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 808.809 – No action taken.

Provisional Variances

IEPA 06-10 Salt Creek Sanitary District v. IEPA—The Illinois Environmental Protection Agency granted this Du Page County waste water treatment plant facility a provisional variance allowing it to exceed its daily maximum limits for Total Suspended Solids and for Carbonaceous Biochemical Oxygen Demand above the limits specified in its National Pollution Discharge Elimination System Permit for the time period from December 21, 2005 through February 4, 2006.

Public Act 93-0152 (Senate Bill 222) amended Sections 35-37 of the Illinois Environmental Act (415 ILCS 5/5(b) (2002)) so that provisional variances are issued by the Illinois Environmental Protection Agency (IEPA). If the IEPA grants a provisional variance, then the IEPA must file a copy of its written decision with the Board. The Board must maintain copies of the provisional variances for public inspection. Copies of provisional variances can be obtained by contacting the Clerk’s Office at (312) 814-3620, or by visiting the Board’s Website at www.ipcb.state.il.us. If the IEPA denies a provisional variance request, then the applicant may initiate a proceeding with the Board for a full variance.

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Calendar

1/05/06	<u>Illinois Pollution Control Board Meeting</u>		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
1/19/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Chicago Michael A. Bilandic Building 160 N. LaSalle Street Second Floor, Room N-505 Chicago
1/20/06 10:30 AM	PCB 06-25	William Breuer v. IEPA	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East Springfield
1/25/06 9:00 AM	PCB 04-19	Paul and Donna Fredrickson v. Jeff Grelyak	McHenry County Courthouse/ Government Center, Room A-140 2200 N. Seminary Street Woodstock
1/26/06 1:00 PM	R06-19	In the Matter of: Clean Construction or Demolition Debris Fill Operations Under PA 94-272 (35 Ill. Adm. Code 1100)	James R. Thompson Center 100 West Randolph Street Room 16-503 Chicago
1/31/06 10:30 AM	R 06-10	In the Matter of: Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)	Michael A. Bilandic Building Room N502 160 N. LaSalle Street Chicago
2/02/06	<u>Illinois Pollution Control Board Meeting</u>		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
2/16/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Chicago James R. Thompson Center Conference Room 09-040 100 W. Randolph Street Chicago

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3/1/06 10:00 AM	R06-19	In the Matter of: Clean Construction or Demolition Debris Fill Operations Under PA 94-272 (35 Ill. Adm. Code 1100)	Illinois State Museum Auditorium, Lower Level 502 South Spring Street Springfield
3/1/06 10:30 AM	R 06-10	In the Matter of: Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)	IEPA North Entrance TQM Room 1000 E. Converse Springfield
3/02/06	<u>Illinois Pollution Control Board Meeting</u>		Illinois Pollution Control Board Board Room, 1244 N 1021 N. Grand Avenue East Springfield
3/16/06 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Chicago James R. Thompson Center Conference Room 09-040 100 W. Randolph Street Chicago

Annual Listing

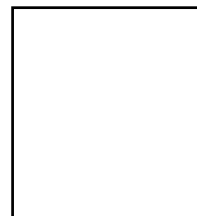
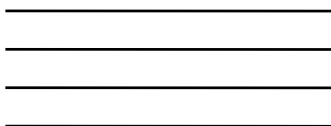
ILLINOIS EPA'S ANNUAL LISTING OF DEDICATED NATURE PRESERVES

<u>Dedicated Nature Preserves</u>	<u>County</u>	<u>Proposed</u>	<u>Final</u>
Parker Fen	McHenry	September 1998	January 1999
Fogelpole Cave	Monroe	May 2003	August 2003
Boone Creek Fen	McHenry	November 2004	March 2005
Spring Hollow	McHenry	November 2004	March 2005
Lee Miglin Savanna	McHenry	November 2004	March 2005
Amberin Ash Ridge	McHenry	November 2004	March 2005
Paulter (Cave) Nature Preserve	Monroe	May 2005	August 2005
Stemler Cave Nature Preserve	St. Clair	May 2005	August 2005

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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Environmental Register

August 2005 - Number 614

The Environmental Register is a Publication of the Illinois Pollution Control Board

J. Philip Novak, Chairman

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Letter from the Chairman

Governor Blagojevich recently authorized the Illinois National Guard to assist with hurricane recovery in Louisiana. This effort will include as many as 300 soldiers and 50 military vehicles. An emergency medical team of ten persons will also be part of this team.

The Pollution Control Board is no stranger to the environmental challenges presented by natural disasters. During the summer of 1993, Illinois experienced very heavy rainfall and many record flood levels. There was extensive property damage in the Mississippi River counties, many of which were designated federal and State disaster areas. The Board twice exercised its rulemaking authority to help affected communities recover from that damage.

In rulemaking docket R 93-15, the Board addressed disposal of the various combustible wastes generated by the flooding. Emergency Amendments to the Open-Burning Rules, 35 Ill. Adm. Code 237.121 (Aug. 20, 1993). Although flooding generated large quantities of landscape and agricultural waste, much of it could not be burned without a permit issued by the Environmental Protection Agency. To expedite disposal of that waste, the Board adopted an emergency rule effective for 150 days that allowed open burning in affected counties under specified conditions. In its opinion adopting the emergency rule, the Board recognized that accumulated waste, especially as it decomposed, could pose risks to surface water and groundwater. The Board also noted that accumulated waste could impede reconstruction efforts, risking the public's health and safety.

In rulemaking docket R 93-25, the Board addressed disposal of the dead animals that resulted from the flooding. Emergency Amendments to the Landfill Rules for On-Site Burial of Dead Animals in Flood-Disaster Counties (Sept. 23, 1993). Under Board regulations, on-site burial of those dead animals may have been considered conducting a waste disposal operation without a permit. To expedite disposal, the Board adopted an emergency rule effective for 150 days that exempted from the landfill regulations persons who buried dead animals on the property where they are found. The Board limited this exemption to counties that had been declared disaster areas and placed conditions on the burial.

I'm sure we're all grateful that Illinois is not now facing any difficulties like the 1993 flooding. If the state does face another natural disaster of that magnitude, I know that the Board will once again do its part.

Hurricane Katrina has inflicted great damage, which in early September is still being assessed and repaired. If you have the means to do so, I hope you will contribute to the hurricane relief effort. Various service organizations such as the Red Cross, charities, religious groups, and other entities are accepting donations, and you should be able to find contact information in a local newspaper or by searching on-line.

Sincerely,



J. Philip Novak
Chairman



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Federal Update

United States Environmental Protection Agency Adopts Amendments Under the Resource Conservation and Recovery Act Designating Mercury Containing Equipment as Universal Waste

On August 5, 2005 (70 Fed. Reg. 45507), the United States Environmental Protection Agency (USEPA) adopted amendments to the Hazardous Waste Management System regulations to designate mercury containing equipment as universal waste.

The final rule added mercury-containing equipment to the federal list of universal wastes regulated under the Resource Conservation and Recovery Act hazardous waste regulations. Handlers of universal wastes are subject to less stringent standards for storing, transporting, and collecting these wastes. USEPA has concluded that regulating spent mercury-containing equipment as a universal waste will lead to better management of this equipment and will facilitate compliance with hazardous waste requirements.

This final rule is effective on August 5, 2005.

For further information contact Kathy Blanton, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460, telephone number: (703) 605-0761; fax number: (703) 308-0514; email: blanton.katherine@epa.gov

In response to a mandate of the General Assembly, the Board has already adopted similar amendments to its universal waste regulations. *See In the Matter of: Mercury Wastes Under PA 93-0964: Amendments to Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720, 721, 724, 725, 728, and 733), R05-8 (April 7, 2005).* The Board's rules now designate mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture as universal waste. The Board's amendments, effective on April 13, 2005, were designed to ensure that the Board's universal waste regulations were consistent with the then still-pending USEPA rules. The Board will include any additional necessary amendments to Board rules resulting from this federal action in a future RCRA identical in substance rulemaking pursuant to Section 7.2 and 22.4 of the Environmental Protection Act (415 ILCS 5/7.2 and 22.4 (2004)).

United States Environmental Protection Agency Proposes Amendments to Clean Water Act Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Iron and Steel Manufacturing Point Source Category

On August 10, 2005 (70 Fed. Reg. 46459), the United States Environmental Protection Agency (USEPA) proposed amendments to certain provisions of the regulations establishing effluent limitations guidelines, pretreatment standards and new source performance standards for the Iron and Steel Manufacturing Point Source Category.

Prior to 2002, regulations applicable to the Iron and Steel Manufacturing Point Source Category had authorized the establishment of limitations applicable to the total mass of a pollutant discharged from more than one outfall. The effect of such a "water bubble" was to allow a greater or lesser quantity of a particular pollutant to be discharged

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from any single outfall so long as the total quantity discharged from the combined outfalls did not exceed the allowed total mass limitation.

On October 17, 2002, USEPA promulgated amendments to the iron and steel regulations (67 FR 64216) and revised the water bubble to prohibit establishment of alternative oil and grease effluent limitations. Based on consideration of new information and analysis, USEPA proposed to reinstate the provision authorizing alternative oil and grease (O&G) limitations with one exception. The proposed amendments would prohibit sintering process O&G trades unless one condition is met. In determining alternative O&G mass limitations for combined outfalls that include outfalls with sintering process wastewater, the allocation for sintering process wastewater must be at least as stringent as otherwise required by federal regulations.

This restriction addresses the USEPA's concern about the possibility of net increases in discharges of furans and dioxins. Sinter lines may receive wastes from all over the facility, from other facilities owned by the same company, and, in some cases, from other companies. Therefore, the sintering process O&G constituents are unpredictable and may contain solvents, a likely source material for furan and dioxin formation.

Comments must be received by September 9, 2005. Comments postmarked after this date may not be considered. Submit comments, data and information for this proposed rule identified by Docket ID No. OW-2002-0027, by one of the following methods:

- 1) Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions for submitting comments.
- 2) USEPA Web site: www.epa.gov/edocket. EDOCKET, USEPA's electronic public docket and comment system is USEPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- 3) E-mail: OW-Docket@epa.gov
- 4) Mail: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. OW-2002-0027. Please include a total of three copies.

For further information contact Elwood H. Forsht, Engineering and Analysis Division, Office of Water, Mail code 4303T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 202-566-1025; fax number 202-566-1053; and e-mail address: forsht.elwood@epa.gov.

The Board will include any necessary amendments to Board rules resulting from this federal action in a future wastewater pretreatment identical in substance rulemaking pursuant to Section 7.2 13, and 13.3, of the Environmental Protection Act (415 ILCS 5/7.2 13, and 13.3 (2004)).

Board Actions

Board Adopts First Notice Opinion and Order in Amendments to the Procedural Rules - "Pollution Control Facility" Definition Under P.A. 93-0998, P.A. 94-0094, and P.A. 94-0249 (35 Ill. Adm. Code 101.202) (R06-09)

On August 4, 2005, the Board adopted a first notice opinion and order in Amendments to the Procedural Rules to Accommodate P.A. 93-0998, P.A. 94-0094, and P.A. 94-0249 (35 Ill. Adm. Code 101.202) (R06-09). The Board is proposing amendments to Section 101.202 of its procedural rules to reflect recent statutory changes to the definition of "pollution control facility" in the Environmental Protection Act (Act)(415 ILCS 5 (2004)). The proposed amendments are scheduled for publication in the August 26, 2005 issue of the *Illinois Register*. So, the Board will accept public comments filed on or before October 10, 2005.

Public Act 93-0998 (P.A. 93-0998, eff. Aug. 23, 2004) added a fourteenth exception to the definition of "pollution control facility" that excludes the portion of a site or facility that accepts, separates, and processes uncontaminated

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broken concrete, provided that the materials are not stored for more than one year at the site and that they are recycled back to useable form.

Public Act 94-0094 (P.A. 94-0094, eff. July 1, 2005) also amended the Act's definition of "pollution control facility." Specifically, P.A. 94-0094 amended the existing exemption from that definition for "the portion of a site or facility accepting exclusively general construction or demolition debris, located in a county with a population over 700,000, and operated and located in accordance with Section 22.38 of this Act." 415 ILCS 5/3.330(a)(13) (2004). P.A. 94-0094 limits that exemption to counties that had reached the population threshold of 700,000 "as of January 1, 2000."

Public Act 94-0249 (P.A. 94-0249, eff. July 19, 2005) added a fifteenth exception to the definition of "pollution control facility" to include:

the portion of a site or facility located in a county with a population over 3,000,000 that has obtained local siting approval under Section 39.2 of this Act for a municipal waste incinerator on or before July 1, 2005 and that is used for a non-hazardous waste transfer station.

The Board is incorporating these statutory changes by adding the new exceptions to the definition of "pollution control facility" in Section 101.202. No other changes are proposed in this rulemaking. Because this proposal amends only a definition contained in the Board's procedural rules, the Board does not now intend to hold a hearing on this matter. See 415 ILCS 5/26 (2004).

Copies of the Board's opinion and order in R06-09 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Tim Fox at 312-814-6085; e-mail address foxt@ipcb.state.il.us.

**August 4, 2005
Springfield, Illinois**

Rulemakings

R06-9	<u>In the Matter of: Amendments to the Procedural Rules – "Pollution Control Facility" Definition Under P.A. 93-0998, P.A. 94-0094, and P.A. 94-0249 (35 Ill. Adm. Code 101.202)</u> – The Board adopted for first notice its own proposal to amend its procedural rules. The proposed rules will reflect three recent amendments to the definition of "pollution control facility" in the Environmental Protection Act (Act) (415 ILCS 5/1 <i>et seq.</i> (2004)). The Board will accept written public comments but does not expect to hold a public hearing.	5-0 R, Proc. Rules
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Adjusted Standards

AS 05-4	<u>In the Matter of: Petition of SCA Tissue North America, L.L.C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(c)</u> – The Board granted this Cook County petitioner an adjusted standard, with conditions, from the Board rules concerning the emission of volatile organic materials, for its facility that recycles magazines into tissue and toweling products.	5-0 Land
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Administrative Citations

AC 04-80	<u>IEPA v. Joseph Luparell and Troy Curley</u> – The Board granted complainant's	5-0
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motion for voluntary dismissal of this administrative citation.

- AC 05-78 County of Kankakee v. Municipal Trust & Savings Bank Trust #1605 – The Board granted complainant’s motion to remove Municipal Trust & Savings Bank as respondent and to add James R. Vining as sole respondent. The Board found that this Kankakee County respondent violated Sections 21(p)(1), (p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2004)), and ordered respondent to pay a civil penalty of \$4,500. 5-0
- AC 05-79 IEPA v. Richard Lee Tedrow and Penny E. Tedrow – The Board found that these Pike County respondents violated Sections 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)), and ordered respondents to pay a civil penalty of \$1,500. 5-0
- AC 06-1 County of Vermilion, Illinois v. Phil Rouse – The Board accepted for hearing this petition for review of an administrative citation against this Vermilion County respondent. 5-0

Motions and Other Matters

- PCB 97-11 People of the State of Illinois v. White & Brewer Trucking – The Board granted complainant’s motion for voluntarily dismissal of this enforcement action involving a Montgomery County facility. 5-0
L, W-E
- PCB 01-115 People of the State of Illinois v. Valley Petroleum, Inc. – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air and water enforcement action involving a DuPage County facility, the Board ordered publication of the required newspaper notice. 5-0
A, W-E
- PCB 02-11 Doris Glave v. Brent Harris, Patty Harris, and Winds Chant Kennel, Inc.; Village of Grayslake v. Winds Chant Kennel, Inc. – The Board granted the parties’ joint motion to stay the proceeding until May 3, 2006. 5-0
PCB 02-32 Citizens N-E
(Cons.)
- PCB 02-105 Board of Trustees of Southern Illinois University Governing Southern Illinois University, Edwardsville v. IEPA – The Board granted petitioner’s motion for summary judgment in part and denied the motion in part. Simultaneously, the Board granted the respondent’s motion for summary judgment in part and denied it in part. The Board ordered respondent to strike Special Condition 2.B and remove any reference to Section 302.211(e) from petitioner’s National Pollutant Discharge Elimination System permit no. IL 0075211. The Board affirmed the issuance of permit no. IL 0075211 with respect to the remaining contested conditions, Special Condition 2.A and 3. 5-0
P-A, NPDES

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PCB 04-84	<u>People of the State of Illinois v. Paramount Developers, 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 ordered publication of the required newspaper notice.	5-0 W-E
PCB 05-149	<u>People of the State of Illinois v. Truserv Corporation d/b/a True Value Manufacturing Company</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
PCB 05-183	<u>Webb & Sons, Inc. v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Coles County facility.	5-0 UST Appeal
PCB 05-187	<u>Southeastern Community Unit School District No. 337 v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Hancock County facility.	5-0 UST Appeal
PCB 05-188	<u>Road Ranger v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Macon County facility.	5-0 UST Appeal
PCB 05-189	<u>Wayne & Dennis Swanson v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Kane County facility.	5-0 UST Appeal
PCB 05-190	<u>Stoller International, Inc. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Livingston County facility.	5-0 UST Appeal
PCB 05-207	<u>People of the State of Illinois v. Precision Twist Drill Company</u> – The Board granted John J. McAleese, III motion for leave to appear <i>pro hac vice</i> on behalf of respondent.	5-0 A-E
PCB 05-221	<u>People of the State of Illinois v. Ron Freeman individually and d/b/a Harbor Lites-Pistakee Fishing Club</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 Lake County facility, the Board ordered publication of the required newspaper notice.	5-0 PWS-E
PCB 06-9	<u>The Estate of Gerald Hess v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Madison County facility.	5-0 UST Appeal

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PCB 06-10	<u>Kane Illinois Properties 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 Lake County facility.	5-0 UST Appeal 90-Day Ext.
PCB 06-12	<u>David Billington Farm-Cisne (Property Identification Number 03-24-025-001)</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of David Billington Farm located in Wayne County are “pollution control facilities” for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C
PCB 06-13	<u>St. Francis Pet Crematory & Kennels, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Winnebago County facility.	5-0 P-A, Land
PCB 06-14	<u>Q&E Properties, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Sangamon County facility.	5-0 UST Appeal
PCB 06-15	<u>People of the State of Illinois v. Illinois-American Water Company</u> – The Board accepted for hearing this public water supply enforcement action involving a site located in Will County.	5-0 PWS-E

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Chicago, Illinois**

Administrative Citations

AC 04-6	<u>IEPA v. Mary Lou and H. Frank Record</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Fulton County facility, the Board found that respondents had violated Section 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3) (2004)) and ordered respondents to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondents’ petition for review and the alleged violation of 415 ILCS 5/21(p) (7) (2004).	4-0
AC 04-39	<u>County of Jackson v. Edward Tow</u> – The Board granted complainant's motion to withdraw and dismiss this administrative citation action involving a Jackson County facility.	4-0
AC 04-63 AC 04-64	<u>County of Jackson v. Egon Kamarasy</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Board in the amount of \$378.60 and a civil penalty of \$7,5000. This order follows the Board's interim	4-0

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(cons.)	order of June 16, 2005, which found that this respondent had violated 21(p)(1), (p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2004)) at his Jackson County facilities.	
AC 05-76	<u>County of Jackson v. Gary Clover</u> – The Board granted complainant's motion to withdraw and dismiss this administrative citation action involving a Jackson County facility.	4-0
AC 05-77	<u>IEPA v. Hunter Garrard</u> – The Board found that this Crawford County respondent violated Section 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2004)), and ordered respondent to pay a civil penalty of \$3,000.	4-0
AC 05-80	<u>County of Kankakee v. South Holland Trust #10897 & John & Ella Hall</u> – The Board accepted for hearing John Hall's petition for review of an administrative citation against these Kankakee County respondents. The Board found that South Holland Trust & Savings, which did not file a petition for review, violated Section 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2004)), but withholds issuing its final order on South Holland Trust & Savings until the Board makes its final decision regarding the Halls.	4-0

Decisions

PCB 05-148	<u>People of the State of Illinois v. Concrete Specialties Company</u> – In this air enforcement action concerning a Cook 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) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$32,500, and to cease and desist from further violations.	4-0 A-E
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Motions and Other Matters

PCB 03-192	<u>Owens Oil Company v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of these consolidated underground storage tank appeals involving a Greene County facility.	4-0
PCB 03-194		UST Appeal
PCB 03-195		
PCB 03-196		
PCB 03-197		
PCB 03-203		
(cons.)		
PCB 03-193	<u>Jim's Shell & Marine v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Macoupin County facility.	4-0 UST Appeal
PCB 04-181	<u>Keller Oil Company/Edgewood v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving an Effingham County facility.	4-0 UST Appeal

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PCB 04-209	<u>DiMucci Development Corporation v. IEPA</u> – The Board granted Jeep & Blazer, LLC’s motion to withdraw as legal counsel for petitioner.	4-0 UST Appeal
PCB 04-215	<u>Commonwealth Edison Company v. IEPA</u> - The Board denied Sierra Club’s motion to intervene in this trade secret appeal. In accordance with the Board’s procedural rules (35 Ill. Adm. Code 101.110, 101.628), however, Sierra Club may participate by making oral or written statements at hearing and by filing <i>amicus curiae</i> briefs or public comments.	4-0 T-S Appeal
PCB 04-216	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – The Board denied Sierra Club’s motion to intervene in this trade secret appeal. In accordance with the Board’s procedural rules (35 Ill. Adm. Code 101.110, 101.628), however, Sierra Club may participate by making oral or written statements at hearing and by filing <i>amicus curiae</i> briefs or public comments.	4-0 T-S Appeal
PCB 05-108	<u>William Breuer v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Washington County facility.	4-0 UST Appeal
PCB 05-157	<u>Grand Pier Center L.L.C. American International Specialty Lines Insurance Co. as subrogee of Grand Pier Center L.L.C, v. River East L.L.C., Chicago Dock and Canal Trust, Chicago Dock and Canal Company, and Kerr-McGee Chemical L.L.C.</u> – The Board granted J.T. Smith II and Thomas E. Hogan motion for leave to appear <i>pro hac vice</i> on behalf of respondent. The Board reserved ruling on all other pending issues.	4-0 Citizens L-E
PCB 05-194	<u>Rosingol Marathon v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Wabash County facility.	4-0 UST Appeal
PCB 05-195	<u>Beckman Service v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Marion County facility.	4-0 UST Appeal
PCB 06-7	<u>Lawrence Keith Padgett and Charlotte Ann Padgett v. Attorney’s Title Guaranty Fund, Inc.</u> – The Board found that the alleged violations were neither duplicative nor frivolous and accepted for hearing this matter involving a Champaign County site.	4-0 Citizens N-E
PCB 06-16	<u>People of the State of Illinois v. OGOCO, Inc.</u> – The Board accepted for hearing this water enforcement action involving a site located in Effingham County.	4-0 W-E

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PCB 06-17	<u>Morgan Southern Company 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 Cook County facility.	4-0 UST Appeal 90-Day Ext.
PCB 06-18	<u>Gold Start FS, Inc. (Lyndon Facility) (Property ID No. 15-15-302-006) v. IEPA.</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that certain agrichemical containment facilities of Gold Start FS, Inc. located in Whiteside County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)). No action was taken on the recommendation to deny certification for the portion of the building over the endloader fertilizer transfer area at the site.	4-0 T-C
PCB 06-19	<u>Pitchco, Inc. (Newton Facility) (Property ID No. 35-02-29-300-006) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Pitchco, Inc. located in Jasper County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C
PCB 06-20	<u>Pitchco, Inc. (Montrose Facility) (Property ID No. 35-02-18-300-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Pitchco, Inc. located in Jasper County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C
PCB 06-21	<u>Gold Star FS, Inc. (Erie Facility) (Property ID No. 20-05-152-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that certain agrichemical containment facilities of Gold Start FS, Inc. located in Whiteside County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)). No action was taken on the recommendation to deny certification for the portion of the building over the endloader fertilizer transfer area at the site.	4-0 T-C
PCB 06-22	<u>Walters' Ag Service, Inc. - Farmington (Property ID No. 05-04-03-400-009) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Walters' Ag Service, Inc. located in Fulton County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C
PCB 06-23	<u>Okawville Farmers Elevator Co. (Property ID No. 12-06-20-478-013) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that certain agrichemical containment facilities of Okawville Farmers Elevator Co. located in Washington	4-0 T-C

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County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)). No action was taken on the recommendation to deny certification for the portion of the building over the endloader fertilizer transfer area at the site.

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|-----------|--|-------------------|
| PCB 06-24 | <u>Evergreen Lane Farm, Inc. - Freeport (Property ID No. 12-08-28-100-004) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Evergreen Lane Farm, Inc. located in Stephenson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)). | 4-0
T-C |
| PCB 06-25 | <u>William Breuer v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility. | 4-0
UST Appeal |

New Cases

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06-009 The Estate of Gerald Hess v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Madison County facility.

06-010 Kane Illinois Properties 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 Lake County facility.

06-011 Silbrico Corporation v. IEPA – No action taken.

06-012 David Billington Farm-Cisne (Property Identification Number 03-24-025-001) – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of David Billington Farm located in Wayne County are “pollution control facilities” for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

06-013 St. Francis Pet Crematory & Kennels, Inc. v. IEPA – The Board accepted for hearing this permit appeal involving a Winnebago County facility.

06-014 Q&E Properties, Inc. v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Sangamon County facility.

06-015 People of the State of Illinois v. Illinois-American Water Company – The Board accepted for hearing this public water supply enforcement action involving a site located in Will County.

AC 06-002 County of LaSalle v. Harriet Baugher and John Baugher – The Board accepted an administrative citation against these LaSalle County respondents.

AC 06-003 IEPA v. Alva McDowell d/b/a McDowell Auction Service – The Board accepted an administrative citation against this Bond County respondent.

R06-008 In the Matter of: Proposed Site-Specific Perlite Waste Disposal Regulation Applicable to Silbrico Corporation (35 Ill. Adm. Code Part 810) – No action taken.

R06-009 In the Matter of: Amendments to the Procedural Rules – “Pollution Control Facility” Definition Under P.A. 93-0998, P.A. 94-0094, and P.A. 94-0249 (35 Ill. Adm. Code 101.202) – The Board adopted for first notice its own proposal to amend its procedural rules. The proposed rules will reflect three recent amendments to the definition of “pollution control facility” in the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2004)). The Board will accept written public comments but does not expect to hold a public hearing.

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06-016 People of the State of Illinois v. OGOCO, Inc. – The Board accepted for hearing this water enforcement action involving a site located in Effingham County.

06-017 Morgan Southern Company 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 Cook County facility.

06-018 Gold Start FS, Inc. (Lyndon Facility) (Property ID No. 15-15-302-006) v. IEPA. – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that certain agrichemical containment facilities of Gold Start FS, Inc. located in Whiteside County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)). No action was taken on the recommendation to deny certification for the portion of the building over the endloader fertilizer transfer area at the site.

06-019 Pitchco, Inc. (Newton Facility) (Property ID No. 35-02-29-300-006) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Pitchco, Inc. located in Jasper County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).

06-020 Pitchco, Inc. (Montrose Facility) (Property ID No. 35-02-18-300-005) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Pitchco, Inc. located in Jasper County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).

06-021 Gold Star FS, Inc. (Erie Facility) (Property ID No. 20-05-152-005) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that certain agrichemical containment facilities of Gold Star FS, Inc. located in Whiteside County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)). No action was taken on the recommendation to deny certification for the portion of the building over the endloader fertilizer transfer area at the site.

06-022 Walters' Ag Service, Inc. - Farmington (Property ID No. 05-04-03-400-009) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Walters' Ag Service, Inc. located in Fulton County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).

06-023 Okawville Farmers Elevator Co. (Property ID No. 12-06-20-478-013) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that certain agrichemical containment facilities of Okawville Farmers Elevator Co. located in Washington County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)). No action was taken on the recommendation to deny certification for the portion of the building over the endloader fertilizer transfer area at the site.

06-024 Evergreen Lane Farm, Inc. - Freeport (Property ID No. 12-08-28-100-004) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Evergreen Lane Farm, Inc. located in Stephenson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).

06-025 William Breuer v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility.

AC 06-004 County of Perry v. Charles Tilley – The Board accepted an administrative citation against this Perry County respondent.

AC 06-005 County of Perry v. Debbie Melvin – The Board accepted an administrative citation against this Perry County respondent.

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Calendar

9/1/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Videconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
9/1/05 1:30 PM	R03-09	In the Matter of: Proposed New and Updated Rules for Measurement and Numerical Sound Emissions Standards Amendments to 35 Ill. Adm. Code 901 and 910	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East, (North Entrance) Springfield
9/15/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Hearing Room 09-040 100 W. Randolph Street Chicago
10/5/05 12:00 PM	AC 05-02	IEPA v. Lester Smith	City Hall Council Chambers 106 W. Fifth Street Metropolis
10/6/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East Springfield
10/20/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Hearing Room 09-040 100 W. Randolph Street Chicago

Class III Groundwater Listing Notice**Pautler Nature Preserve III Special Resource Groundwater Final Listing Notice**

The Illinois Environmental Protection Agency (Illinois EPA) requests a final listing of Pautler (Cave) Nature Preserve, which is a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. The DNP is located in northwestern Monroe County, Illinois, approximately two and one-half miles west of the City of Waterloo. The DNP is comprised of 3.18 acres located in Section 33 of the Waterloo Quadrangle, Township 2 South, Range 10 West of the Third Principal Meridian. The recharge area of Pautler Nature Preserve includes 2.86 square miles of karst landscape. The total DNP and the groundwater contribution area is an irregularly shaped 6.3 square mile (4,031.98 acre) tract of land. The recharge area is located predominantly to the south and west of the DNP.

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 a DNP, and upon confirmation

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of the technical adequacy, publish the proposed listing of the DNP 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.

Stemler Cave Nature Preserve III Special Resource Groundwater Final Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests a final listing of Stemler Cave Nature Preserve, which is a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. The DNP is located in western St. Clair County, Illinois, approximately three and one-half miles west of the City of Millstadt. The DNP is comprised of .88 acres in Section 12 of the Waterloo Quadrangle, Township 1 South, Range 10 West of the Third Principal Meridian. The total recharge area of Stemler Cave Nature Preserve includes 3.93 square miles of karst landscape. The DNP and the groundwater contribution area is an irregularly shaped 7.16 square mile (4,582.38 acre) tract of land. The recharge area is located predominantly to the south of the DNP.

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 a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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.

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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 June 31, 2005.

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.

FACILITY NAME	RESPONSIBLE AUTHORITY	COUNTY	REMAINING CAPACITY
Alhambra STP	Village of Alhambra	Madison	0
Bonnie Brae Forest Manor SD STP	Bonnie Brae Forest Manor SD	Will	0
Bourbonnais (Belle Aire Subd.)	Village of Bourbonnais	Kankakee	0
Camelot Utilities	Camelot Utilities	Will	0
Wastewater Collection System			
Camp Point (a portion mh 60-68)	Village of Camp Point	Adams	0
Clearview S.D.	Clearview S.D.	McLean	0
East Alton	City of East Alton	Madison	0
Farmington	City of Farmington	Fulton	0
Hurst & Blairville Collection SYSTEM	City of Hurst	Williamson	0
Lockport Heights SD STP	City of Lockport	Will	0
Port Byron STP	Village of Port Byron	Rock Island	0
Rosewood Heights S.D.- Ninth Street LS	Rosewood Heights S.D.	Madison	0
Saint Elmo	City of Saint Elmo	Fayette	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: Maple Lawn Homes STP

Additions from previous quarterly report: None

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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 June 31, 2005.

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

FACILITY NAME	RESPONSIBLE AUTHORITY	COUNTY	REMAINING CAPACITY	PE ADDED SINCE LAST LIST
Algonquin	Village of Algonquin	Kane	1,024	576
Antioch STP	Village of Antioch	Lake	612	0
Beardstown SD	City of Beardstown	Cass	1,731	
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	5,800	0
Dakota	Village of Dakota	Stephenson	90	0
Downers Grove S.D.	Downers Grove S.D.	DuPage	2,655	391
East Dundee STP	Village of E. Dundee	Kane	550	0
Elkville	Village of Elkville	Jackson	6	0
Ferson Creek Utilities Co.	Utilities, Inc.	Will	70	0
LCPWD-Diamond- Sylvan STP	County of Lake Public Works Department	Lake	0	0
Lake Barrington Home Owners Assn. STP	Lake Barrington Home Owners Assn.	Lake	80	0
Lockport	City of Lockport	Will County	0	1,477
Moline (North Slope)	City of Moline	Rock Island	1,151	0
Morris STP	City of Morris	Grundy	0	159
New Lenox STP 1**	Village of New Lenox	Will	751	579
Paris STP	City of Paris	Edgar	0	
Rock Island (Main)	City of Rock Island	Rock Island	4,199	259
Streator	City of Streator	LaSalle/ Livingston	705	35
Wauconda – Remaining Collection System & Lakeview Villa LS	Village of Wauconda	Lake	***	
Wauconda WWTP	Village of Wauconda	Lake		18

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Deletions from previous quarterly report: None

Additions from previous quarterly report: None

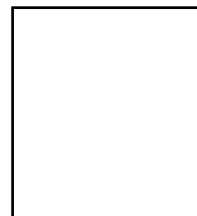
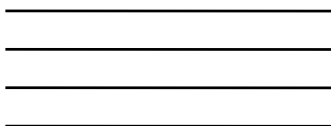
***Contact IEPA – Permit Section

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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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Illinois Pollution Control Board
Environmental Register Coordinator
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P.O. Box 19274
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Environmental Register

May 2005 - Number 611

The Environmental Register is a Publication of the Illinois Pollution Control Board

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Letter from the Chairman

As I prepare this letter on June 8, a number of bills have passed both of the two houses of the Illinois General Assembly. Twelve of those bills have particular interest for the Illinois Pollution Control Board, parties appearing before it, and regulated entities. Although the Governor has not yet acted upon any of them, I've briefly summarized them below. You can obtain more specific information through the General Assembly's Web site at www.ilga.gov.

House Bill 406, sponsored by Representative Robert Rita and Senator James Meeks, amends the Environmental Protection Act (Act) to exclude from its definition of "pollution control facility" the portion of a Cook County site that has obtained local siting approval under the Act for a municipal waste incinerator on or before July 1, 2005 and that is used for a non-hazardous waste transfer station.



House Bill 414, sponsored by Representative Kathy Ryg and Senator Terry Link, amends the Act to provide that a facility accepting exclusively general construction or demolition debris and that as of January 1, 2000 is located in a county with a population of 700,000 or more persons is not a "pollution control facility" under the Act. The bill also makes a similar change regarding waste permits by providing that no permit shall be required for a facility in a county with a population over 700,000 as of January 1, 2000. These provisions do not now specify the January 1, 2000 restriction.

House Bill 433, sponsored by Representative George Scully and Senator Kwame Raoul, amends the Act to provide that the disposal of asbestos-containing material in violation of certain federal regulations is a Class 4 felony.

House Bill 918, sponsored by Representative Kevin Joyce and Senator James Clayborne, also amends the Act. In language providing that siting approval may be granted if the facility is consistent with the county's solid waste management plan, the bill defines that plan as one in effect when the siting application is filed.

House Bill 1149, sponsored by Representative John Millner and Senator Susan Garrett, amends the Act to create the Computer Equipment Disposal and Recycling Commission. The commission's duties include issuing a report of its findings and recommendations related to the disposal and recycling of computer equipment by May 31, 2006.

Senate Bill 241, sponsored by Senator John Cullerton and Representative Tom Holbrook, also amends the Act. The bill provides that, for any release or substantial threat of release for which the Illinois Environmental Protection Agency (Agency) is required to give notice, the Director may issue to any person potentially liable under the Act for the release or substantial threat of release any order that may be necessary to protect the public health and welfare and the environment. The bill under specified conditions authorizes reimbursement for the costs, fees, and expenses of persons receiving these orders. The bill also authorizes the Agency to evaluate the release of contaminants whenever the Agency determines that the soil or groundwater contamination extends beyond the boundary of the site where the release occurred. The bill further provides that the persons to whom the Agency must give notice when certain contamination-related events occur are the persons owning property within 2,500 feet of the subject contamination or within any other distance that the Agency deems appropriate. The bill further provides that the methods by which the Agency gives the required notice shall be determined in consultation with members of the public and regulated community and may include personal notification, public meetings, signs, electronic notification, and print media.

Senate Bill 397, sponsored by Senator James DeLeo and Representative Frank Mautino, creates the Vehicle Emissions Inspection Law of 2005 providing for a new inspection program in specified counties beginning February 1, 2007. Generally, the bill requires testing based primarily on the use of on-board diagnostic systems.

Senate Bill 431, sponsored by Senator Debbie Halvorson and Representative Julie Hamos, amends the Act to provide that, on making a finding that an open dump poses a threat to the public health or to the environment, the Agency may take preventive or corrective action as necessary or appropriate to end the threat. The bill further provides that specified persons may be held liable for the costs of Agency corrective or preventive action resulting

from open dumping, and it establishes defenses against liability for open dumping. The bill provides factors that the Agency must consider before taking preventive or corrective action against open dumping and further provides that the Agency may not expend more than \$50,000 at any single site in response to an open dump except under specified circumstances. In addition, the bill imposes an interim and final permit program so that by July 1, 2008 no person shall use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation without an Agency permit. The bill also prohibits certain State employees or their relatives from having a direct financial interest in any waste-disposal operation or clean construction or demolition debris fill operation requiring a permit or in any related corporate entity.

Senate Bill 1701, sponsored by Senator James Clayborne and Representative Tom Holbrook, amends the Act by requiring the Agency to provide an Illinois Toxic Chemical Inventory in cooperation with the U.S. Environmental Protection Agency and based on release forms filed pursuant to specified federal law. For the purposes of the Clean Air Act Permit Program, in the definition of "major source" that is included in the subsection on applicability, the bill makes a change in the list of stationary source categories for which fugitive emissions are to be considered. The bill further provides that a compliance management system documented by a regulated entity as reflecting its due diligence in preventing, detecting, and correcting violations may serve as a substitute for an environmental audit in connection with self-disclosure of non-compliance.

Senate Bill 1787, sponsored by Senator Kirk Dillard and Representative Tom Holbrook, amends the Act by providing that the term "owner" as used in the Petroleum Underground Storage Tank (UST) program includes any person who has submitted to the Agency a written election to proceed under the UST program and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "no further remediation letter" by the Agency.

Senate Bill 1909, sponsored by Senator William Haine and Representative Dan Reitz, amends the Act to include additional materials within the definition of "coal combustion by-product" (CCB). The bill further provides that, in certain circumstances, the EPA must make written beneficial use determinations that coal-combustion waste is a CCB. The bill also sets forth procedures for the application for and approval of a beneficial use determination.

Senate Bill 2040, sponsored by Senator Deanna Demuzio and Representative Jim Watson, amends the Act to provide that a no further remediation letter does not apply to off-site contamination related to the occurrence that has not been remediated due to denial of access to the off-site property. The bill also provides that the no further remediation letter shall apply in favor of an owner of a parcel of real property to the extent the no further remediation letter applies to the occurrence on that parcel.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Philip Novak". The signature is written in a cursive, somewhat stylized font.

J. Philip Novak
Chairman

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Federal Update

United States Environmental Protection Agency Adopts Final Rules Under the Clean Air Act to Amend the Transportation Conformity Rule for the New PM_{2.5} National Ambient Air Quality Standard

On May 6, 2005 (70 Fed. Reg. 24279) the United States Environmental Protection Agency (USEPA) adopted a final rule amending the transportation conformity standards for the new Particulate Matter (PM_{2.5}) National Ambient Air Quality Standard to address PM_{2.5} precursors.

The final rule adds the following transportation-related PM_{2.5} precursors to the transportation conformity regulations: nitrogen oxides (NO_x), volatile organic compounds (VOCs), sulfur oxides (SO_x), and ammonia (NH₃). The final rule specifies when each of these precursors must be considered in conformity determinations in PM_{2.5} nonattainment and maintenance areas before and after PM_{2.5} state air quality implementation plans (SIPs) are submitted.

Controls on NO_x and SO_x will be implemented in two phases. Phase I will become effective for NO_x in the year 2009, and for SO_x in 2010. Phase II of the program, which implements incremental reductions from the initial cuts, begins in 2015. The initial emission reductions for NO_x for Illinois in the first phase will require a reduction in emissions from the base of 146,248 tons to 76,230 tons. In 2015, the Phase II Illinois NO_x emissions cap will be 63,525 tons. During the ozone season (May through September), electric generating units in Illinois will be limited to 30,701 tons in Phase I and 28,981 tons in Phase II.

The projected base case SO₂ emissions are not individually noted for Illinois. Nevertheless, USEPA stated that the Phase I SO₂ reductions are to be based on a 50% reduction from existing allowable emissions, and the Phase II reductions in 2015 are based on a 65% reduction. The 2010 Phase I state annual budget for Illinois will be 192,671 tons, and the Phase II limitations in 2015 will be 134,869 tons.

USEPA projects that the PM_{2.5} concentrations in the Chicago metropolitan and Metro East St. Louis areas will decrease by 0.64 to 0.70 micrograms per liter (ug/l) under Phase I. The projected reductions are 0.76 to 0.85 ug/l under Phase II. USEPA did not tabulate projected ozone reductions for Illinois, but did so for other states. USEPA projects reductions in mercury emissions from power plants as a result of the Clean Air Interstate Rule (CAIR), but does not quantify those reductions.

The final rule is effective June 6, 2005. USEPA is imposing a deadline of September 11, 2006 for the states to submit enforceable compliance plans for federal approval.

Materials relevant to this rulemaking are in Public Docket I.D. No. OAR-2003-0049 located at the Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460; phone: 202-566-1742.

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For further information contact Rudy Kapichak, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, MI 48105, e-mail address: kapichak.rudolph@epa.gov, telephone number: (734) 214-4574, fax number 734-214-4052; or Angela Spickard, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, MI 48105, e-mail address: spickard.angela@epa.gov, telephone number: (734) 214-4283, fax number 734-214-4052.

If any amendments to the Illinois air rules become necessary, the Board would expect the Illinois Environmental Protection Agency to propose amendments using the Clean Air Act “fast-track” procedures at Section 28.5 of the Environmental Protection Act (415 ILCS 5/28.5 (2002)).

United States Environmental Protection Agency Proposes Amendments Under the Clean Air Act to Extend the Global Laboratory and Analytical Use Exemption for Essential Class I Ozone Depleting Substances

On May 13, 2005 (70 Fed. Reg. 25725) the United States Environmental Protection Agency (USEPA) proposed amendments to the protection of stratospheric ozone regulations to extend the global laboratory and analytical use exemption for essential class I ozone depleting substances.

USEPA is proposing to extend the global laboratory and analytical use exemption for production and import of class I ozone-depleting substances from December 31, 2005, to December 31, 2007, consistent with recent actions by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. The exemption allows persons in the United States to produce and import controlled substances for laboratory and analytical uses that have not been already identified by USEPA as nonessential. USEPA also is proposing to clarify the applicability of the laboratory and analytical use exemption to production and import of methyl bromide after the January 1, 2005, phase-out date.

Written comments on this proposed rule must be received on or before July 12, 2005. Comments should be identified by Docket ID Number OAR-2004-0064 and may be submitted by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, USEPA's electronic public docket and comment system, is USEPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

Mail: Air and Radiation Docket, Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention: Docket ID No. OAR-2004-0064.

For further information contact Scott Monroe, Essential Use Program Manager, by mail at U.S. Environmental Protection Agency, Stratospheric Protection Division (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone: 202-343-9712; or by e-mail: monroe.scott@epa.gov.

United States Environmental Protection Agency Adopts Amendments Under the Clean Air Act to the Clean Air Mercury Rule

On May 18, 2005 (70 Fed. Reg. 28605) the United States Environmental Protection Agency adopted standards of performance for new and existing stationary sources under the Clean Air Mercury Rule. The regulations establish standards of performance for mercury (Hg) for new and existing coal-fired electric utility steam generating units (Utility Units), as defined in Clean Air Act (CAA) section 111.

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The amendments to CAA section 111 rules would establish a mechanism by which Hg emissions from new and existing coal-fired Utility Units are capped at specified, nation-wide levels. A first phase cap of 38 tons per year (tpy) becomes effective in 2010, and a second phase cap of 15 tpy becomes effective in 2018. Facilities must demonstrate compliance with the standard by holding one “allowance” for each ounce of Hg emitted in any given year. Allowances are readily transferable among all regulated facilities. USEPA claims that this cap-and-trade approach to limiting Hg emissions is the most cost-effective way to achieve the reductions in Hg emissions from the power sector. Additionally, USEPA stated that an added benefit of the cap-and-trade approach is that it dovetails well with the sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emission caps under the final Clean Air Interstate Rule (CAIR) that was signed on March 10, 2005. CAIR establishes a broadly applicable cap-and-trade program that significantly limits SO₂ and NO_x emissions from the power sector. According to USEPA, the advantage of regulating Hg at the same time and using the same regulatory mechanism as for SO₂ and NO_x is that significant Hg emissions reductions, especially reductions of oxidized Hg, can and will be achieved by the air pollution controls designed and installed to reduce SO₂ and NO_x. Significant Hg emissions reductions can be obtained as a “co-benefit” of controlling emissions of SO₂ and NO_x; thus, the coordinated regulation of Hg, SO₂ and NO_x allows Hg reductions to be achieved in a cost-effective manner.

The final rule also finalizes a performance specification (PS) (Performance Specification 12A, “Specification and Test Methods for Total Vapor Phase Mercury Continuous Emission Monitoring Systems in Stationary Sources”) and a test method (“Quality Assurance and Operating Procedures for Sorbent Trap Monitoring Systems”). USEPA is also taking final action to amend the definition of “designated pollutant.” The existing definition predates the Clean Air Act Amendments of 1990 and, as a result, refers to section 112(b)(1)(A) which no longer exists.

The final rule is effective on July 18, 2005.

For information concerning analyses performed in developing the final rule, contact Mr. William Maxwell, Combustion Group, Emission Standards Division (C439-01), USEPA, Research Triangle Park, North Carolina, 27711; telephone number (919) 541-5430; fax number (919) 541-5450; email address: maxwell.bill@epa.gov.

If any amendments to the Illinois air rules become necessary, the Board would expect the Illinois Environmental Protection Agency to propose amendments using the Clean Air Act “fast-track” procedures at Section 28.5 of the Environmental Protection Act (415 ILCS 5/28.5 (2002)).

Appellate Update

Illinois Supreme Court Denies Petition for Leave to Appeal Third District Appellate Court Decision Affirming Board Order Vacating Grant of Local Siting Approval for Landfill Expansion in Waste Management of Illinois, Inc. v. Illinois Pollution Control Board, County of Kankakee, County Board of Kankakee, City of Kankakee, Merlin Karlock, Keith Runyon, and Michael Watson, No.100166 (May 25, 2005) (PCB 03-125, PCB 03-133, PCB 03-134, PCB 03-135 (cons.))

In a May 25, 2005 order, the Illinois Supreme Court denied a petition for leave to appeal. Waste Management of Illinois, Inc. v. Illinois Pollution Control Board, County of Kankakee, County Board of Kankakee, City of Kankakee, Merlin Karlock, Keith Runyon, and Michael Watson, No.100166 (May 25, 2005). The Court stated that its mandate would issue to the Appellate Court on June 16, 2005.

Waste Management of Illinois Inc. (WMII) had asked the Court to review a ruling in which the Third District Appellate Court affirmed the Board's decision to vacate the Kankakee County Board's grant of siting approval for a landfill expansion in Waste Management of Illinois, Inc. v. Illinois Pollution Control Board, County of Kankakee, County Board of Kankakee, City of Kankakee, Merlin Karlock, Keith Runyon, and Michael Watson, No. 3-03-0924 (February 4, 2005; see also March 23, 2005 order granting the Board's motion to publish the ruling as a precedential decision).

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The court's February 2005 ruling was previously summarized in detail. See *Environmental Register* No. 608 (February 2005) at pp. 3-7 and No. 609 (March 2005) at pp. 4-5.

In brief, the Board vacated the County Board's decision on jurisdictional grounds. The Board found the County lacked jurisdiction over the siting application because WMII failed to notify a nearby landowner, Brenda Keller, of its siting application in accordance with Section 39.2(b) of the Act (415 ILCS 5/39.2(b) (2002)). Section 39.2(b) of the Act (415 ILCS 5/39.2(b) (2002)) has three distinct elements. First, property owners listed on the authentic tax records must be served notice. Second, property owners who own property within 250 feet of the lot line of the proposed facility must be notified. Third, service on those property owners must be made using certified mail return receipt or personal service.

The Third District was the first appellate court to apply to Section 39.2 (b) of the Act the Illinois Supreme Court's holding in People ex rel. v. \$30,700 U.S. Currency et al., 199 Ill. 2d 142, 766 N.E.2d 1084 (2002) (\$30,700 U.S. Currency). Under \$30,700 U.S. Currency, service is deemed complete once the notice is placed in the mail. In other words, under Section 39.2(b) of the Act (415 ILCS 5/39.2(b) (2002)), an applicant can effect service by mailing the pre-filing notice to property owners certified mail return receipt and the service is proper upon mailing. The Board found the Supreme Court's decision in \$30,700 U.S. Currency effectively overruled the appellate court's decision in Ogle County Board v. PCB, 272 Ill. App. 3d 184, 649 N.E.2d 545 (2nd Dist 1995) (Ogle County) (finding that actual receipt of notice by the landowner, and not just mailing of it by the applicant, was required to effectuate service under Section 39.2 (b) of the Act).

Rule Update

Board Accepts Chemical Industry Council of Illinois' Proposal for Hearing in Plastic Molding Operations: Proposed Amendments to Exemptions from State Permitting Requirements (35 Ill. Adm. Code 201.146) (R05-20)

On May 5, 2005, the Board accepted a proposal for hearing in Plastic Molding Operations: Proposed Amendments to Exemptions from State Permitting Requirements (35 Ill. Adm. Code 201.146) (R05-20). The proposal, filed by the Chemical Industry Council of Illinois (CICI) on April 19, 2005, seeks to amend the Board's air permit regulations.

The amendments propose revisions to the Board's regulations for air construction and operating permits. The proposal seeks to add one category to the existing list of 59 permit exemptions at 35 Ill. Adm. Code 201.146. According to CICI, the purpose of the proposal is to eliminate the burden of state construction and operating permitting of low emitting emission units and activities for both the Environmental Protection Agency and owners and operators of plastic injection equipment. The proposed amendment would include plastic injection molding operations in the categories of emissions units exempt from state air permitting requirements.

CICI states that plastic injection molding operations emit volatile organic material and that emissions from the associated activities covered under the proposed exemption to Section 201.146 of the Board's regulations are negligible. CICI asserts that these are low emission sources that would qualify for the de minimus exemption proposed in the pending R05-19 proceeding, In the Matter of: Proposed Amendments to Exemptions From State Permitting Requirements (35 Ill. Adm. Code 201.146), R05-19 (March 17, 2005). However, according to CICI, the amendments in R05-19 would not provide relief to sources that do not otherwise require a permit.

Hearings are scheduled for July 1, 2005, at 11:00 am at James R. Thompson Center, 100 W. Randolph Street, Room 8-032, Chicago, and July 15, 2005, at 10:00 am at Illinois Pollution Control Board Hearing Room, 1021 North Grand Avenue East, North Entrance, Springfield. Additional details and requirements for the pre-filing of hearing testimony are contained in the May 25, 2005 hearing officer order.

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Copies of the Board's opinion and order in R04-21, as well as the May 25, 2005 hearing officer order, may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Amy Antonioli at 312/814-3665; email address antonioa@ipcb.state.il.us.

Board Adopts Final Opinion and Order in Amendments to the Board's Procedural Rules to Accommodate New Statutory Provisions 35 Ill. Adm. Code 101-130 (R04-24)

On May 19, 2005, the Board adopted a final opinion and order in Amendments to the Board's Procedural Rules to Accommodate New Statutory Provisions 35 Ill. Adm. Code 101-130 (R04-24). The adopted proposal involves amendments intended to reflect provisions of the new State Officials and Employees Ethics Act (5 ILCS 430, *created by* P.A. 93-615, eff. Nov. 19, 2003, *amended by* P.A. 93-617, eff. Dec. 9, 2003), as well as other recent amendments to the Environmental Protection Act (415 ILCS 5 (2002)) and Administrative Procedure Act (5 ILCS 100 (2002)). The adopted amendments, filed with the Secretary of State's Index Department are scheduled for publication in the June 16, 2005 issue of the *Illinois Register*.

The Board opened Docket R04-24 on its own motion to update its procedural rules to include several pieces of legislation discussed below. The Board did not make any substantive changes to the proposal it adopted for first notice on March 18, 2004 (published in the *Illinois Register* on May 7, 2004).

The State Officials and Employees Ethics Act (5 ILCS 430) required changes to the Board's procedural rules on "*ex parte* communications." The Board amended the definition of "*ex parte* communication" in Section 101.202 to track the statutory language in the Ethics Act defining the term. The Board also amended Section 101.114 on *ex parte* communications. The main change to this section reflects new statutory reporting requirements for the Board's ethics officer.

The Board made other changes required by Public Acts that amended the Environmental Protection Act over approximately the past two years:

Changes to the Environmental Protection Act in P.A. 93-152 (effective July 10, 2003) and P.A. 92-574 (effective June 26, 2002) resulted from recommendations of the Illinois Environmental Regulatory Review Commission (IERRC). Created in December 1999 by Executive Order 18, the IERRC was charged with reviewing and recommending improvements to the Environmental Protection Act, which was originally enacted in 1970.

P.A. 93-152, (effective July 10, 2003) amended the Environmental Protection Act in several significant ways: (1) having the Illinois Environmental Protection Agency (IEPA) rather than the Board issue provisional variances (*see* 35 Ill. Adm. Code 101.302(d); Part 104.Subpart C); (2) allowing the Board to adopt settlements in citizen enforcement actions without a public hearing (*see* 35 Ill. Adm. Code 103.301); (3) updating incorporations by reference in Board rules through a new rulemaking procedure that does not require a public hearing or a request that the Department of Commerce and Economic Opportunity, formerly the Department of Commerce and Community Affairs, conduct an economic impact study on the proposed rules (*see* 35 Ill. Adm. Code 102.211); (4) authorizing prevailing citizen complainants before the Board to go to circuit court to enforce a final Board order by injunction or other relief (*see* 35 Ill. Adm. Code Part 103. Subpart F); and (5) clarifying that the administrative citation civil penalty amount of \$1,500 (or \$3,000 for a subsequent violation) is to be imposed for each violation of each provision of Section 21(p) of the Environmental Protection Act (415 ILCS 5/21(p) (2002)) (*see* 35 Ill. Adm. Code 108.500).

P.A. 92-574 (effective June 26, 2002) resulted in a number of non-substantive changes to the Environmental Protection Act. The Board adopted corresponding changes to its procedural rules. For example, the word "duplicitous," confusing when referring to citizen complaints, is changed to "duplicative." *See* 35 Ill. Adm. Code 101.202; Part 103.Subpart B.

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P.A. 93-171 (effective July 10, 2003) amends the Environmental Protection Act's provisions (Sections 52.3-1, 52.3-2, and 52.3-4) addressing Environmental Management Systems Agreements or "EMSAs." EMSAs are agreements between the IEPA and a "sponsor" designed to implement innovative environmental measures not otherwise allowed under the law.

The P.A. 93-171 amendments specify that EMSAs may be executed with participants in the United States Environmental Protection Agency's (USEPA) "Federal Performance Track Program," which is the successor to USEPA's "Federal XL Program." USEPA operates the Federal Performance Track Program to "recognize and reward businesses and public facilities that demonstrate strong environmental performance beyond current regulatory requirements." Section 52.3-1(a)(6). P.A. 93-171 states that the IEPA may terminate an EMSA if the sponsor ceases to participate in the Federal Performance Track Program. The Board amended its procedural rules at Section 106.704 to specify this additional ground for IEPA termination of EMSAs and the sponsors right to appeal that termination to the Board.

P.A. 93-509 (effective August 11, 2002) amends Section 5 of the Environmental Protection Act. Among other things, this legislation reduced the number of Board members from seven to five and correspondingly reduced the number of Board members needed for a majority vote. Accordingly, the Board amended the definition of "Board decision" in the procedural rules to reflect that the favorable vote of at least three rather than four Board members is required for a Board decision. *See* 35 Ill. Adm. Code 101.202; *see also* Section 101.300(d)(1).

Also amended since the Board last completely revised its procedural rules in January 2001 is the Administrative Procedure Act. Due to P.A. 92-330 (effective August 9, 2001), the Administrative Procedure Act now requires rulemaking proposals published in the *Illinois Register* to describe any published study or research report used in developing the rule and where the public may obtain a copy. This new requirement is reflected in changes to the procedural rules at 35 Ill. Adm. Code Sections 102.202, 102.210, and 102.820.

Copies of the Board's opinion and order in R04-24 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Richard McGill at 312-814-6983; e-mail address mcgillr@ipcb.state.il.us

Board Adopts Final Opinion and Order in Definition of VOM Update, USEPA Amendments (July 1, 2004 through December 31, 2004) (R05-16)

On May 19, 2005, the Board adopted a final opinion and order in Definition of VOM Update, USEPA Amendments (July 1, 2004 through December 31, 2004) (R05-16). This rulemaking adopts amendments to update the definition of "volatile organic material" (VOM) in the Board's air pollution regulations (35 Ill. Adm. Code 211.7150). The update ensures that Illinois' regulations reflect the United States Environmental Protection Agency's (USEPA) most recent exemption of chemical compounds from regulation as ozone precursors. The adopted amendments, filed with the Secretary of State's Index Department and effective May 23, 2005, were published in the *Illinois Register* at 29 Ill. Reg. 8181(June 3, 2005). The Board made only minor, non-substantive changes to the proposal it adopted for public comment.

Section 9.1(e) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(e) (2002)) mandates this rulemaking. That statutory provision requires the Board to exclude from the definition of VOM those compounds determined by USEPA to be exempt from regulation under the state implementation plans for ozone "due to negligible photochemical reactivity." 415 ILCS 5/9.1(e) (2002). In addition, Section 9.1(e) of the Act requires the Board to conduct this rulemaking pursuant to the provisions of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2002)) for adopting rules that are "identical in substance" to the federal requirements.

Section 9.1(e) also provides that Title VII of the Act and Section 5-35 of the Administrative Procedure Act (APA) (5 ILCS 100/5-35 (2002)) do not apply to this type of rulemaking. However, as provided in Section 9.1(e) of the

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Act and as required by the federal Clean Air Act (33 U.S.C. § 7410(a) (2003)), the Board held a public hearing on the proposed amendments. The hearing was held in Chicago on Tuesday, April 12, 2005.

The amendments adopted in this rulemaking address two USEPA amendments to the federal definition of “volatile organic compound” (VOC), which is the same as VOM as used in the Illinois regulations. First, on November 29, 2004, USEPA added four compounds to the list of chemical species that are exempt from the federal definition of VOC and, accordingly, are exempt from regulation for control of ozone precursors. Second, also on November 29, 2004, USEPA excluded an additional compound from the VOC definition, for purposes of emissions limitations and VOC content requirements, but retained the compound as VOC for purposes of recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements.

Copies of the Board’s opinion and order in R05-16 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board’s Web site at www.ipcb.state.il.us.

For additional information contact the hearing officer, Richard McGill, at 312-814-6983; e-mail address mcgillr@ipcb.state.il.us.

Board Actions

May 5, 2005
Springfield, Illinois

Rulemakings

R05-20	<u>In the Matter of: Plastic Injection Molding Operations: Proposed Amendments to Exemptions From State Permitting Requirements (35 Ill. Adm. Code 201.146)</u> – The Board granted the motion to waive the petition requirement and accepted for hearing the Chemical Industry Council of Illinois’ April 19, 2005 proposal to amend the Board’s air regulations.	5-0 R, Air
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Administrative Citations

AC 05-59	<u>IEPA v. Dale and Carol Hartley</u> – The Board found that these Edgar County respondents violated Section 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2002)), and ordered respondents to pay a civil penalty of \$3,000.	5-0
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Decisions

PCB 04-135	<u>People of the State of Illinois v. GF Office Furniture, Ltd., L.P., Office Suites, Inc., and GF Furniture Holding, Inc.</u> – In this air enforcement action concerning a Cook 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) (2002)), and accepted a stipulation and settlement agreement. The Board ordered the respondents to pay a total civil penalty of \$30,000, to provide emissions excursion compensation in the amount of \$38,590.26 to the Environmental Protection Agency, pursuant to Section 205.720(b) of the Board’s Air Pollution Regulations (35 Ill. Adm. Code 205.720(b)), and to cease and desist from further violations.	5-0 A-E
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Motions and Other Matters

PCB 00-104	<u>People of the State of Illinois v. The Highlands, L.L.C., Murphy Farms, Inc. a/k/a Murphy Family Farms, and Bion Technologies, Inc.</u> – The Board denied respondent Murphy Farms’ motion to dismiss the second amended complaint. The stay was lifted as of the date of this order and Murphy Farms has 30 days from the date of this order, to answer the complaint.	5-0 A-E
PCB 02-40	<u>Village of Round Lake Park v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this request for variance involving a Lake County facility.	5-0 W-V
PCB 03-82	<u>PPG Industries, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a Macon County facility.	5-0 P-A, Air
PCB 03-180 PCB 03-186 PCB 03-187 (cons.)	<u>Royer Oil Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of these underground storage tank appeals involving a Bond County facility.	5-0 UST Appeal
PCB 04-19	<u>Paul and Donna Fredrickson v. Jeff Grelyak</u> – The Board denied respondent’s motion for summary judgment and directed the hearing officer to proceed expeditiously to hearing.	5-0 Citizens A&N-E
PCB 04-100	<u>People of the State of Illinois v. Roberts Environmental Control, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
PCB 04-131	<u>Circle C, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Jersey County facility.	5-0 UST Appeal
PCB 04-167	<u>L. Keller Oil Properties, Inc./Effingham/Downtown Super K v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving an Effingham County facility.	5-0 UST Appeal
PCB 05-89	<u>People of the State of Illinois v. Redfearn Earthmoving, 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 Jo Daviess County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E

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PCB 05-138	<u>BP Products North America, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a Madison County facility.	5-0 P-A, RCRA
PCB 05-179	<u>Arthur Keller-Willow Hill (Livestock Waste Management Facilities) (Property Identification Number 94-15-18-300-007) v. IEPA</u> – The Board did not receive any petition for review of the Illinois Environmental Protection Agency’s (IEPA’s) recommendation to deny certification. Consistent with the IEPA’s recommendation, the Board declined to certify that Arthur Keller-Willow Hill’s dead animal compost bin is a pollution control facility and dismissed this matter.	5-0 T-C Water
PCB 05-186	<u>Midwest Petroleum Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a St. Clair County facility.	5-0 UST Appeal
PCB 05-187	<u>Southeastern Community Unit School District No. 337 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 Hancock County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-188	<u>Road Ranger 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 Macon County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-189	<u>Wayne & Dennis Swanson 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 Kane County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-190	<u>Stoller International, Inc. 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 Livingston County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-191	<u>People of the State of Illinois v. Castle Ridge Estates, Inc.</u> – The Board accepted for hearing this air enforcement action involving a site located in Madison County.	5-0 W-E
PCB 05-192	<u>People of the State of Illinois v. Bag Makers, Inc.</u> – The Board accepted for hearing this air enforcement action involving a site located in McHenry County.	5-0 A-E

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May 19, 2005
Chicago, Illinois

Rulemakings

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| R04-24 | <p><u>In the Matter of: Amendments to the Board’s Procedural Rules to Accommodate New Statutory Provisions: 35 Ill. Adm. Code 101-130</u> – The Board adopted a final opinion and order in this rulemaking amending the Board’s procedural regulations.</p> | <p>5-0
R, Proc.
Rules</p> |
| R05-16 | <p><u>In the Matter of: Definition of VOM Update, USEPA Amendments (July 1, 2004 through December 31, 2004)</u> – The Board adopted a final opinion and order amending the Board’s air pollution control regulations to make them “identical in substance” to federal regulations adopted from July 1, 2004 through December 31, 2004.</p> | <p>5-0
R, Air</p> |

Adjusted Standards

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| AS 05-6 | <p><u>In the Matter of: Petition of Schaeffer Enterprises of Wolf Lake, Inc. for an Adjusted Standard from Tire Storage Rules at 35 Ill. Adm. Code 848.202(b)(5) and 848.404</u> – The Board dismissed this petition for an adjusted standard due to deficiencies in the petition and petitioner’s failure to publish notice of the filing of the petition by advertisement in a newspaper of general circulation in the area likely to be affected, as required by Section 28.1 of the Environmental Protection Act (415 ILCS 5/28.1(d)(1) (2002)).</p> | <p>5-0
Land</p> |
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Administrative Citations

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| AC 04-82 | <p><u>IEPA v. John Brown d/b/a John Brown Painting</u> – The Board entered an interim opinion and order finding respondent violated Section 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2002)) and assessing a penalty of \$3,000. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent. The Board will then issue a final order assessing hearing costs.</p> | <p>5-0</p> |
| AC 05-62 | <p><u>IEPA v. F.I.M., Inc.</u> – The Board found that this Adams County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2002)), and ordered respondent to pay a civil penalty of \$1,500.</p> | <p>5-0</p> |

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AC 05-63	<u>IEPA v. John R. Malloch</u> – The Board accepted for hearing this petition for review of an administrative citation against this Champaign County respondent.	5-0
AC 05-68	<u>County of Jackson v. Elwood Glasper and Tony Glasper</u> – The Board granted complainant's motion to voluntarily dismiss this administrative citation.	5-0

Decisions

PCB 05-109	<u>Paul Johnson, Inc. v. IEPA and City of Waterman</u> – The Board granted this DeKalb County petitioner a water well setback exception, with conditions, from 415 ILCS 5/14.2 (2002) of the Environmental Protection Act to allow petitioner to perform in-situ bioremediation via the direct push Geoprobe method.	5-0 WWSE
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Motions and Other Matters

PCB 97-179	<u>People of the State of Illinois v. Midwest Grain Products of Illinois, Inc.</u> – The Board granted Patrick M. Flachs' motion for leave to appear <i>pro hac vice</i> on behalf of respondent.	5-0 A-E
PCB 00-117	<u>Ophelia Niemann f/d/b/a Barney's Garage, Inc. v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Montgomery County facility.	5-0 UST Appeal
PCB 01-130	<u>JR & Sons, Inc. v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeals involving a Champaign County facility.	5-0 UST Appeal
PCB 02-205 PCB 02-206 (cons.)	<u>Home Oil; Company v. IEPA</u> – The Board granted this St. Clair County facility's motion for voluntary dismissal of this underground storage tank appeal, in PCB 02-205 only. The appeal docketed as PCB 02-206 remains open.	5-0 UST Appeal
PCB 04-85	<u>Robert and Tony Thompson v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving an Alexander County facility.	5-0 UST Appeal
PCB 05-66	<u>People of the State of Illinois v. Petco Petroleum Corporation</u> – The Board granted complainant's motion for leave file an amended complaint and accepted it for hearing.	5-0 W-E
PCB 05-126	<u>Red Rooster Corporation f/k/a Clark Retail Enterprises, Inc. (Clark Oil #2086) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Peoria County facility.	5-0 UST Appeal
PCB 05-147	<u>Vision Properties Blue Island, L.L.C. v. IEPA</u> – Having previously granted a	5-0

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	request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Cook County facility.	P-A, RCRA
PCB 05-157	<u>Grand Pier Center L.L.C. and American International Specialty Lines Insurance Co. as subrogee of Grand Pier Center L.L.C. v. River East L.L.C., Chicago Dock and Canal Trust, Chicago Dock and Canal Company, and Kerr-McGee Chemical L.L.C.</u> – The Board found that the alleged violations were neither duplicative nor frivolous, denied respondents’ motion to dismiss, struck complainant’s request for attorney fees, and accepted for hearing this matter involving a Cook County site.	5-0 Citizens L-E
PCB 05-194	<u>Rosignol Marathon 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 Wabash County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-195	<u>Beckman Service 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 Marion County facility.	5-0 UST Appeal 90-Day Ext.

New Cases

May 5, 2005 Board Meeting

05-186 Midwest Petroleum Company v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a St. Clair County facility.

05-187 Southeastern Community Unit School District No. 337 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 Hancock County facility.

05-188 Road Ranger 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 Macon County facility.

05-189 Wayne & Dennis Swanson 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 Kane County facility.

05-190 Stoller International, Inc. 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 Livingston County facility.

05-191 People of the State of Illinois v. Castle Ridge Estates, Inc. – The Board accepted for hearing this air enforcement action involving a site located in Madison County.

05-192 People of the State of Illinois v. Bag Makers, Inc. – The Board accepted for hearing this air enforcement action involving a site located in McHenry County.

AC 05-066 County of Kankakee v. Municipal Trust & Savings Bank Trust #1697 – The Board accepted an administrative citation against this Kankakee County respondent.

AC 05-067 IEPA v. Donald E. and Mary A. Jennings – The Board accepted for hearing this petition for review of an administrative citation against these Brown County respondents.

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AC 05-068 County of Jackson v. Elwood Glasper and Tony Glasper – The Board accepted for hearing this petition for review of an administrative citation against these Jackson County respondents.

R05-020 In the Matter of: Plastic Injection Molding Operations: Proposed Amendments to Exemptions From State Permitting Requirements (35 Ill. Adm. Code 201.146) – The Board granted the motion to waive the petition requirement and accepted for hearing the Chemical Industry Council of Illinois' April 19, 2005 proposal to amend the Board's air regulations.

May 19, 2005 Board Meeting

05-186 Midwest Petroleum Company v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a St. Clair County facility.

05-187 Southeastern Community Unit School District No. 337 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 Hancock County facility.

05-188 Road Ranger 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 Macon County facility.

05-189 Wayne & Dennis Swanson 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 Kane County facility.

05-190 Stoller International, Inc. 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 Livingston County facility.

05-191 People of the State of Illinois v. Castle Ridge Estates, Inc. – The Board accepted for hearing this air enforcement action involving a site located in Madison County.

05-192 People of the State of Illinois v. Bag Makers, Inc. – The Board accepted for hearing this air enforcement action involving a site located in McHenry County.

AC 05-066 County of Kankakee v. Municipal Trust & Savings Bank Trust #1697 – The Board accepted an administrative citation against this Kankakee County respondent.

AC 05-067 IEPA v. Donald E. and Mary A. Jennings – The Board accepted for hearing this petition for review of an administrative citation against these Brown County respondents.

AC 05-068 County of Jackson v. Elwood Glasper and Tony Glasper – The Board accepted for hearing this petition for review of an administrative citation against these Jackson County respondents.

R05-020 In the Matter of: Plastic Injection Molding Operations: Proposed Amendments to Exemptions From State Permitting Requirements (35 Ill. Adm. Code 201.146) – The Board granted the motion to waive the petition requirement and accepted for hearing the Chemical Industry Council of Illinois' April 19, 2005 proposal to amend the Board's air regulations.

Provisional Variances

IEPA 05-005 Lincoln Place Mobile Home Park v. IEPA—The Illinois Environmental Protection Agency granted Lincoln Place Mobile Home Park in Sangamon County a provisional variance from the effluent limitations for total suspended solids and fecal coliform limitations specified in its NPDES permit for the seven day period beginning May 5, 2005. The provisional variance was needed to make needed repairs to their wastewater treatment plant.

Public Act 93-0152 (Senate Bill 222) amended Sections 35-37 of the Illinois Environmental Act (415 ILCS 5/5(b) (2002)) so that provisional variances are issued by the Illinois Environmental Protection Agency (IEPA). If the IEPA grants a provisional variance, then the IEPA must file a copy of its written decision with the Board. The Board must maintain copies of the provisional variances for public inspection. Copies of provisional variances can be obtained by contacting the Clerk's Office at (312) 814-3620, or by visiting the Board's Website at

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www.ipcb.state.il.us. If the IEPA denies a provisional variance request, then the applicant may initiate a proceeding with the Board for a full variance.

Calendar

6/2/05 11:00 AM		<u>Illinois Pollution Control Board Meeting</u>	Videconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
6/13/05 11:00 AM	AC 05-20	IEPA v. John Groff (formerly John Groff and Robert Groff)(IEPA file #412-04-AC)	City Hall Council Chambers 101 S. Broadway Salem
6/14/05 10:00 AM	R05-19	In the Matter of: Proposed Amendments to Exemptions From State Permitting Requirements (35 Ill. Adm. Code 201.146)	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East (North Entrance) Springfield
6/16/05 11:00 AM		<u>Illinois Pollution Control Board Meeting</u>	James R. Thompson Center Hearing Room 9-040 100 W. Randolph Street Chicago
6/28/05 10:00 AM	AS 05-05	In the Matter of: Petition of Ford Motor Company for Adjusted Standard From 35 Ill. Adm. Code 218.586	James R. Thompson Center Room 11-512 100 W. Randolph Street Chicago
6/29/05 10:00 AM	PCB 05-125	Red Rooster Corporation (f/k/a Clark Retail Enterprises, Inc.)(Clark Oil #2086)(12/6/04 IEPA Determination) v. IEPA	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East (North Entrance) Springfield
6/29/05 10:00 AM	PCB 05-126	Red Rooster Corporation (f/k/a Clark Retail Enterprises, Inc.)(Clark Oil #2086)(12/30/04 IEPA Determination) v. IEPA	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East (North Entrance) Springfield
7/01/05 11:00 AM	R05-20	In the Matter of: Proposed Amendments to Exemptions From State Permitting Requirements for Plastic Injection Molding Operations (35 Ill. Adm. Code 201.146)	James R. Thompson Center Room 8-032 100 W. Randolph Street Chicago

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7/7/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
7/15/05 11:00 AM	R05-20	In the Matter of: Proposed Amendments to Exemptions From State Permitting Requirements for Plastic Injection Molding Operations (35 Ill. Adm. Code 201.146)	Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East, (North Entrance) Springfield
7/21/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Hearing Room 9-040 100 W. Randolph Street Chicago
7/27/05 10:00 AM	R04-22	In the Matter of: Proposed Amendments to Regulations of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732)(Consolidated: R04-22 and R04-23	Lesar Law Building Room 206 1150 Douglas Dr. Carbondale
7/27/05 10:00 AM	R04-23	In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed new 35 Ill. Adm. Code 734)(Consolidated: R04-22 and R04-23	Lesar Law Building Room 206 1150 Douglas Dr. Carbondale
8/4/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue East Springfield
8/18/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Hearing Room 9-040 100 W. Randolph Street Chicago
8/25/05 10:30 AM	R04-25	In the Matter of: Proposed Amendments to Dissolved Oxygen Standards 35 Ill. Adm. Code 302.206	Michael A. Bilandic Building Room N505 Fifth Floor 160 N. LaSalle Chicago

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Class III Groundwater Listing Notice

Pautler Nature Preserve III Special Resource Groundwater Listing Notice

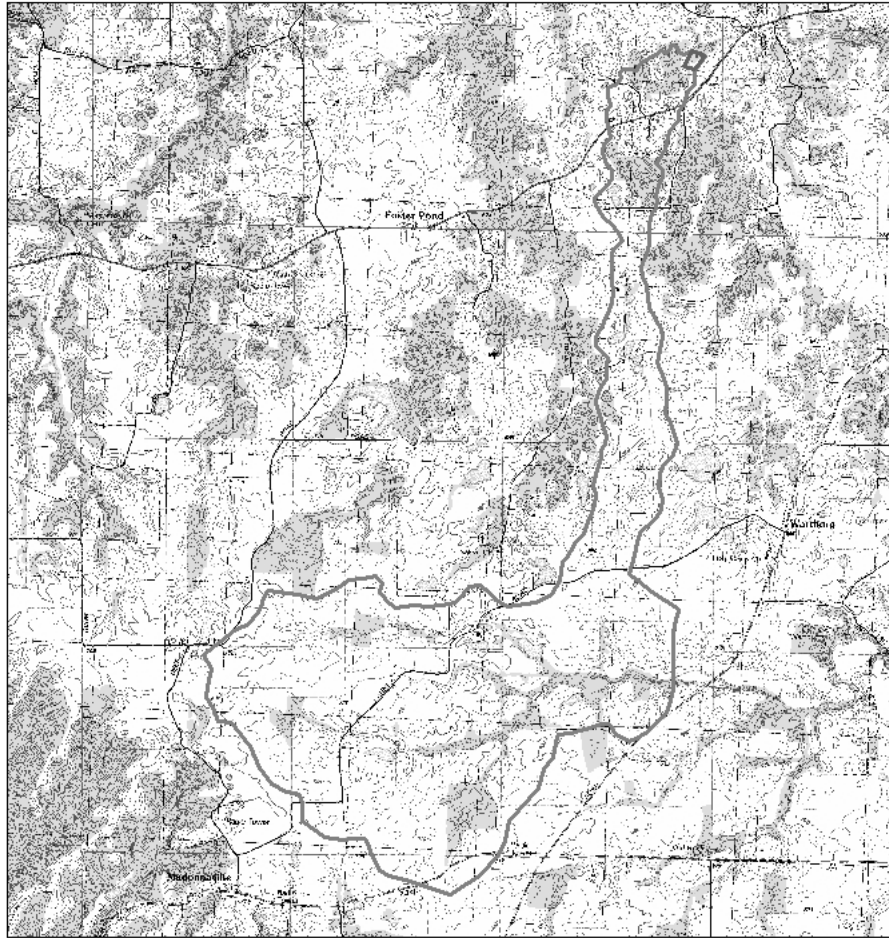
The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Pautler (cave) Nature Preserve, which is a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. The DNP is located in northwestern Monroe County, Illinois, approximately two and one-half miles west of the City of Waterloo. The DNP is comprised of 3.18 acres located in Section 33 of the Waterloo Quadrangle, Township 2 South, Range 10 West of the Third Principal Meridian. The DNP and the groundwater contribution area is an irregularly shaped 2.86 square mile (1,830.39 acre) tract of land. The recharge area is located predominantly to the south and west of the DNP.

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 a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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.

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Exhibit 1: Map of proposed Pautler Nature Preserve Class III Special Resource Groundwater area in Monroe County, Illinois, projected on a USGS topographic map. The map is based on the delineation of the groundwater system by Aley and Moss (2001).



Legend

-  Pautler Nature Preserve Boundary
-  Class III Groundwater Boundary



Illinois EPA

12 May 2005

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Stemler Nature Preserve III Special Resource Groundwater Listing Notice

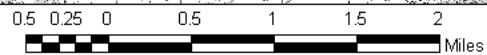
The Illinois Environmental Protection Agency (Illinois EPA) requests a proposed listing of Stemler Cave Nature Preserve, which is a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. The DNP is located in western St. Clair County, Illinois, approximately three and one-half miles west of the City of Millstadt. The DNP is comprised of .88 acres in Section 12 of the Waterloo Quadrangle, Township 1 South, Range 10 West of the Third Principal Meridian. The DNP and the groundwater contribution area is an irregularly shaped 3.93 square mile (2,515.19 acre) tract of land. The recharge area is located predominantly to the south of the DNP.

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 a DNP, and upon confirmation of the technical adequacy, publish the proposed listing of the DNP 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.

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Exhibit 1: Map of proposed Stemler Cave Nature Preserve Class III Special Resource Groundwater area in St. Clair County, Illinois, projected on a USGS topographic map. The map is based on the delineation of the groundwater system by Aley and Moss (2000).



Legend

-  Stemler Cave N.P.
-  Class III Groundwater Boundary



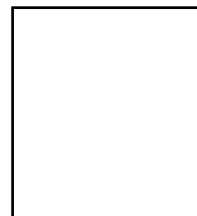
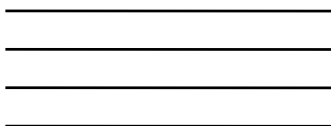
Illinois EPA

13 May 2005

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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Illinois Pollution Control Board
Environmental Register Coordinator
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Environmental Register

March 2005 - Number 609

The Environmental Register is a Publication of the Illinois Pollution Control Board

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Letter from the Chairman

As you may know, the Board has recently considered proposed rules relating to radium and phosphorus in the State's waters.

At its April 7, 2005 meeting, the Board adopted as a second first-notice proposal radium standards originally filed by the Illinois Environmental Agency (IEPA) on January 13, 2004. The Board's proposal reflects testimony received during five days of public hearings and in a substantial number of public comments.

Specifically, the Board's proposal includes a new general use water quality standard of 3.75 picocuries per liter (pCi/L) combined radium 226 and 228 in place of the existing general use water quality standard of radium 226 standard of 1 pCi/L. This standard would continue to apply to all general use waters of the State and to the Lake Michigan Basin. The proposal also applies a combined radium standard of 30 pCi/L to stream segments that receive discharge from publicly-owned treatment works (POTWs) receiving wastewater discharge from public water supplies using groundwater with a high radium concentration as a drinking water source. The 30 pCi/L combined radium 226 and 228 standard will apply only from the point of discharge to the point one mile downstream from the discharge outfall.



The Board found in its order that this second first-notice proposal will protect all designated uses of the State's waters. The Board also found that the proposal will achieve the IEPA's goal of relieving a regulatory burden for many existing POTWs. POTWs that receive wastewater from public drinking water supplies using high radium groundwater as a source of raw potable water will benefit because the Board's proposed rulemaking provides a higher combined radium standard for stream segments receiving their discharge. The Board is accepting public comment on this second first-notice proposal.

Also at its April 7, 2005 meeting, the Board adopted for first notice proposed phosphorus regulations originally filed by the IEPA on May 14, 2004. The Board has now held two days of public hearings and received a substantial number of public comments.

The IEPA proposed a phosphorus effluent limit of 1.0 milligram per liter (mg/l) as a monthly average that would apply to new or expanded discharges from treatment works with a designed average flow over 1.0 million gallons per day receiving municipal or domestic wastewater, or a total phosphorus effluent load of 25 lbs/day or more. However, if the source can demonstrate that phosphorus is not the limiting nutrient in the receiving water or that alternative phosphorus effluent limits are warranted by the aquatic environment in the receiving water, the 1.0 mg/l limit would not apply. The proposal also provides that the new water quality standards are not effective until approved by the United States Environmental Protection Agency.

The Board's orders and proposed rules are available through the Clerk's Office On-Line (COOL) at www.ipcb.state.il.us. I invite you to take a closer look at those documents. We encourage you to participate in these proceedings and to assist us in the development of sound environmental policy for the people of Illinois.

Sincerely,

A handwritten signature in black ink that reads "J. Philip Novak". The signature is written in a cursive style.

J. Philip Novak
Chairman

Inside This Issue:

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CLASS III GROUNDWATER FINAL LISTING NOTICE	P. 21

Federal Update

United States Environmental Protection Agency Adopts Amendments to the Uniform Hazardous Waste Manifest Regulations Under the Resource Conservation and Recovery Act

On March 4, 2005 (70 Fed. Reg. 10775) the United States Environmental Protection Agency (USEPA) adopted new requirements revising the Uniform Hazardous Waste Manifest regulations and the manifest and continuation sheet forms used to track hazardous waste from a generator's site to the site of its disposition.

The revisions standardize the content and appearance of the manifest form and continuation sheet, make the forms available from a greater number of sources, and adopt new procedures for tracking certain types of waste shipments with the manifest. The latter types of shipments include hazardous wastes that destination facilities reject, wastes consisting of residues from non-empty hazardous waste containers, and wastes entering or leaving the United States. USEPA had included provisions for e-manifests in its original proposal (*See* 66 Fed. Reg. 28240, May 22, 2001), but withdrew those provisions in response to public comments. USEPA stated that it would consider e-manifest requirements in a separate rulemaking.

This final rule is effective September 6, 2005.

For further information regarding specific aspects of this notice, contact Bryan Groce, Office of Solid Waste, telephone number (703) 308-8750, email address groce.bryan@epa.gov. Mail inquiries may be directed to the Office of Solid Waste, (5304W), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

United States Environmental Protection Agency Postpones Effective Date of National Pollutant Discharge Elimination System (NPDES) Storm Water Permit Requirements for Oil and Gas Activity That Disturbs One to Five Acres

On March 9, 2005 (70 Fed. Reg. 11560) the United States Environmental Protection Agency (USEPA) postponed, until June 12, 2006, the effective date of the requirement to obtain National Pollutant Discharge Elimination System (NPDES) storm water permit coverage for oil and gas construction activity that disturbs one to five acres of land.

This is the second postponement promulgated by USEPA for these activities. This postponement will allow the USEPA additional time to complete its analysis of the issues raised by stakeholders about storm water runoff from construction activities at oil and gas sites and of practices and methods for controlling these storm water discharges to mitigate impacts on water quality, as appropriate. USEPA stated that it intends to publish a notice of proposed rulemaking in the *Federal Register* in the next six months to address these discharges and to invite public comments.

This action is effective on March 9, 2005.

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For further information contact Jeff Smith, Office of Wastewater Management, Office of Water, Environmental Protection Agency (4203M), 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number:(202) 564-0652; fax number: (202) 564-6431; e-mail address: smith.jeff@epa.gov.

United States Environmental Protection Agency Proposes Amendments to the Clean Air Act National Emission Standards for Hazardous Air Pollutants for Oil and Gas Activity That Disturbs One to Five Acres

On March 25, 2005 (70 Fed. Reg. 15250) the United States Environmental Protection Agency (USEPA) proposed amendments to exempt permanently from the Clean Air Act (CAA) Title V operating permit program five categories of nonmajor (area) sources subject to national emission standards for hazardous air pollutants (NESHAP). The five source categories are dry cleaners, halogenated solvent degreasers, chrome electroplaters, ethylene oxide sterilizers and secondary aluminum smelters.

Consistent with the CAA exemption requirements, USEPA is proposing to make a finding that compliance with Title V permitting requirements is impracticable, infeasible, or unnecessarily burdensome on the five source categories. USEPA is proposing to decline making such a finding for a sixth category: area sources subject to the secondary lead smelter NESHAP.

A previous deferral from permitting for these six categories expired on December 9, 2004, subjecting all such sources to the title V program unless and until USEPA finalizes an exemption for a category.

Comments must be received on or before May 24, 2005. Submit your comments, identified by Docket ID No. OAR-2004-0010, by one of the following methods:

- (1) Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
 - (2) Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, USEPA's electronic public docket and comment system, is USEPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
 - (3) E-mail: Send electronic mail (e-mail) to EPA Docket Center at a-and-r-docket@epamail.epa.gov.
- Direct your comments to Docket ID No. OAR-2004-0010.

For further information contact Mr. Jeff Herring, Information Transfer and Program Integration Division, Office of Air Quality Planning and Standards, Mail Code C304-04, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3195; fax number:(919) 541-5509; and e-mail address: herring.jeff@epa.gov.

Pursuant to Section 9.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(b) (2002)), once adopted by the USEPA, NESHAP rules are applicable and enforceable under the Act without further action by the Board.

Appellate Update

Third District Dismisses Premature Appeal in Midwest Generation EME, LLC v. Illinois Environmental Protection Agency and Illinois Pollution Control Board, No. 3-04-0945 (March 4, 2005) (PCB 04-185)

In a March 4, 2005 final unpublished order under Supreme Court Rule 23 (155 Ill.2d R. 23), the Third District Appellate Court dismissed, for lack of jurisdiction, the appeal captioned Midwest Generation EME, LLC v. Illinois Environmental Protection Agency and Illinois Pollution Control Board, No. 3-04-0945 (March 4, 2005). The Board and the Illinois Environmental Protection Agency (IEPA) had moved for dismissal, arguing that the appeal was premature. The Court agreed, dismissing the appeal in a one-paragraph order.

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The case at issue here is Midwest Generation EME, LLC v. Illinois Environmental Protection Agency, PCB 04-185. This case is a pending trade secret appeal that has not yet been to hearing.

Background on Trade Secrets

By way of background, under Section 7 of the Environmental Protection Act (Act) (415 ILCS 5/7 (2002)), all files, records, and data of the Board, IEPA, and the Illinois Department of Natural Resources are open to reasonable public inspection and copying. However, the Act provides that certain materials may represent “trade secrets,” “privileged” information, “internal communications of the several agencies,” or “secret manufacturing processes or confidential data” and, accordingly, be protected from public disclosure. *See* 415 ILCS 5/7(a) (2002); *see also* 415 ILCS 5/7.1 (2002) (trade secrets). Even so, the Act denies protection from public disclosure for: effluent data under the National Pollutant Discharge Elimination System (NPDES) permit program; emission data to the extent required by the federal Clean Air Act; and the quantity, identity, and generator of substances being placed or to be placed in landfills or hazardous waste treatment, storage, or disposal facilities. *See* 415 ILCS 5/7(b)-(d) (2002).

In Midwest’s appeal, trade secret status is at issue. The Act defines “trade secret” as follows:

[T]he whole or any portion or phase of any scientific or technical information, design, process (including a manufacturing process), procedure, formula or improvement, or business plan which is secret in that it has not been published or disseminated or otherwise become a matter of general public knowledge, and which has competitive value. A trade secret is presumed to be secret when the owner thereof takes reasonable measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes. 415 ILCS 5/3.48 (2002).

The Board has established procedures for identifying and protecting articles that constitute trade secrets or other non-disclosable information. *See* 35 Ill. Adm. Code 130. “Article” means “any object, material, device or substance, or whole or partial copy thereof, including any writing, record, document, recording, drawing, sample, specimen, prototype, model, photograph, culture, microorganism, blueprint or map.” 415 ILCS 5/7.1 (2002).

The owner of an article seeking trade secret protection for the article must claim that the article represents a trade secret when the owner submits the article to the State agency. *See* 35 Ill. Adm. Code 130.200(a). The State agency must consider the claimed information as a trade secret and protect it from disclosure in accordance with Part 130 procedures unless and until the State agency makes a final determination denying the trade secret request and all appeal times have expired without that final determination being overturned. *See* 35 Ill. Adm. Code 130.200(d), 130.210.

The owner of the article may submit a “Statement of Justification” for trade secret protection (*see* 35 Ill. Adm. Code 130.203) to the State agency at the time the owner submits the article, or at a later time, but in no event later than the time limit of Section 130.202. *See* 35 Ill. Adm. Code 130.200(c). Section 130.202 requires the owner to submit the Statement of Justification within ten working days of the State agency’s request (*see* 35 Ill. Adm. Code 130.202(a)), which request may be triggered by a FOIA request for the claimed information (*see* 35 Ill. Adm. Code 130.201(b)). The State agency may extend the time period an additional ten working days if timely requested by the owner. *See* 35 Ill. Adm. Code 130.202(b). The State agency must determine whether the article represents a trade secret within 45 days after receiving a complete Statement of Justification, but the owner may waive out this decision deadline. *See* 35 Ill. Adm. Code 130.206.

Midwest’s Petition for Review

The information at issue in this case relates to Midwest’s six coal-fired power stations, all of which are in Illinois. In its April 19, 2004 petition for review, Midwest stated that it submitted information to IEPA on November 6, 2003, claiming trade secret protection for the information. Pet. at 1-2. The company explained that it provided the submittal in response to an information request that the United States Environmental Protection Agency (USEPA)

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made pursuant to Section 114 of the federal Clean Air Act (42 U.S.C. § 7414). Midwest stated that, as required by USEPA's Section 114 request, the company sent a copy of its response to IEPA. *Id.*

IEPA denied trade secret protection for what Midwest described as two types of information: (1) "information Midwest [] compiled concerning capital projects at each of its coal-fired electric generating units"; and (2) "information identifying the monthly and annual net generation, the monthly coal heat content, and the monthly net heat rate for each of its coal-fired units." Pet. at 2. Midwest argued that IEPA erred in determining the company failed to demonstrate that the information claimed to be trade secret had not become a matter of general public knowledge, had competitive value, and did not constitute emission data exempt from protection. *Id.* at 2-5, Attachment 1.

In a May 6, 2004 order, the Board accepted for hearing Midwest's petition for review. The Board also directed that, as Midwest requested, any hearings would be held *in camera* to avoid disclosing to the public the information claimed to be trade secret. On May 20, 2004, IEPA filed the administrative record of its trade secret determination, which consists of approximately 2,700 pages, in two volumes: Volume I is redacted so as not to disclose claimed trade secret information; Volume II contains the unredacted documents claimed to contain trade secrets.

The Board issued an interim order on November 4, 2004. Among other things, the Board denied a motion by Midwest to partially reconsider the following passage of the Board's May 6, 2004 order: "Hearings will be based exclusively on the record before IEPA at the time it issued its trade secret determination. See 35 Ill. Adm. Code 105.214(a)." Midwest instead asked the Board to review IEPA's trade secret determination *de novo*, *i.e.*, to consider new evidence and not just the evidence in the record before IEPA at the time of IEPA's trade secret determination. Additionally, in its November 4, 2004 order, the Board remanded the matter to IEPA for the limited purpose of having IEPA state, in a supplemental determination, the reasoning for its denial of trade secret protection. The Board retained jurisdiction of the trade secret appeal.

Midwest sought review by the Third District Appellate Court of the Board's November 4, 2004 decision. In the motion to dismiss granted by the court, the Board argued that the appeal was premature and that because Midwest sought review of a non-final Board order, the court lacked jurisdiction. Among other things, the Board noted that Midwest did not ask the Board to certify these questions for interlocutory appeal in accordance with the Board's procedural rule at 35 Ill. Adm. Code 101.908, citing Illinois Supreme Court Rule 308 (155 Ill.2d R. 308).

Third District Appellate Court Agrees to Publish its Decision Affirming Board Order Vacating Grant of Local Siting Approval for Landfill Expansion in Waste Management of Illinois, Inc. v. Illinois Pollution Control Board, County of Kankakee, County Board of Kankakee, City of Kankakee, Merlin Karlock, Keith Runyon, and Michael Watson, No. 3-03-0924 (February 4, 2005) (PCB 03-125, PCB 03-133, PCB 03-134, PCB 03-135 (cons.))

In a March 23, 2005 order, the Third District Appellate Court granted the motion of the Board for publication of the Court's February 4, 2005 final unpublished 10-page order under Supreme Court Rule 23 (155 Ill.2d R. 23); the Third District Appellate Court affirmed the Board's decision to vacate the Kankakee County Board's grant of siting approval for a landfill expansion in Waste Management of Illinois, Inc. v. Illinois Pollution Control Board, County of Kankakee, County Board of Kankakee, City of Kankakee, Merlin Karlock, Keith Runyon, and Michael Watson, No. 3-03-0924 (February 4, 2005). The court's published 10-page opinion can now serve as helpful precedent in resolving future cases.

The court's February 2005 ruling was summarized in detail last month. See *Environmental Register* No. 608 (February 2005) at pp. 3-7. The opinion, which is virtually identical to the unpublished order it replaces, will not be summarized again in detail here.

In brief, the Board vacated the County Board's decision on jurisdictional grounds. The Board found the County lacked jurisdiction over the siting application because Waste Management of Illinois, Inc. (WMI) failed to notify a nearby landowner, Brenda Keller, of its siting application in accordance with Section 39.2(b) of the Act (415 ILCS 5/39.2(b) (2002)). Section 39.2(b) of the Act (415 ILCS 5/39.2(b) (2002)) has three distinct elements. First, property owners listed on the authentic tax records must be served notice. Second, property owners who own

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property within 250 feet of the lot line of the proposed facility must be notified. Third, service on those property owners must be made using certified mail return receipt or personal service.

The Board moved to publish the court's decision primarily because it was the first appellate court to apply to Section 39.2 (b) of the Act the Illinois Supreme Court's holding in People ex rel. v. \$30,700 U.S. Currency et al., 199 Ill. 2d 142, 766 N.E.2d 1084 (2002) (\$30,700 U.S. Currency). Under \$30,700 U.S. Currency, service is deemed complete once the notice is placed in the mail. In other words, under Section 39.2(b) of the Act (415 ILCS 5/39.2(b) (2002)), an applicant can effect service by mailing the pre-filing notice to property owners certified mail return receipt and the service is proper upon mailing. The Board found the Supreme Court's decision in \$30,700 U.S. Currency effectively overruled the appellate court's decision in Ogle County Board v. PCB, 272 Ill. App. 3d 184, 649 N.E.2d 545 (2nd Dist 1995) (Ogle County) (finding that actual receipt of notice by the landowner, and not just mailing of it by the applicant, was required to effectuate service under Section 39.2 (b) of the Act).

The court agreed with the Board's application of \$30,700 US Currency to the facts at hand, summarizing the Supreme Court holding as being that

Jurisdiction is not premised on the recipient's actions, once the letter is received, but on the form of sending of the letter; jurisdiction will exist as long as the letter is sent by the prescribed method." *Id.*, slip op. at 8.

The court observed that WMII had cited no authority in support of its contention that the statute is satisfied by actual or constructive notice, despite its specifications as to acceptable service methods, and that posting or regular mail service would do. The court remarked that even if Brenda Keller had actual notice, "[n]otice would not have been achieved by the statutorily-required means and proof of actual notice would not overcome that failure of compliance." *Ibid.*

Prior to the entry of the order publishing the Third District's February 4 decision, WMII had filed a petition for leave to appeal the Third District decision in the Illinois Supreme Court. The petition is still no before the Illinois Supreme Court.

Fifth District Appellate Court Grants Voluntary Dismissal of Appeal and Cross-Appeal in County of Saline v. Saline County Landfill, Inc. et al., No 5-04-0295 (March 31 and April 4, 2005)

The Fifth District Appellate Court granted the motion of the County of Saline to dismiss its appeal, as well as the motion of Saline County Landfill to dismiss its cross-appeal in County of Saline v. Saline County Landfill, Inc., Illinois Environmental Protection Agency and Illinois Pollution Control Board et al., No 5-04-0295 (March 31 and April 4, 2005). Consequently, the Court also cancelled oral argument in the matter, scheduled for April 6, 2005. These orders are unpublished under Supreme Court Rule 23 (155 Ill.2d R. 23). Dismissal of the appeals leaves undisturbed an important Board ruling interpreting Section 39.2(f) of the Environmental Protection Act (Act)(415 ILCS 5/39.2(f) (2002)).

The Board decision on appeal was a May 6, 2004 order in a permit appeal captioned Saline County Landfill, Inc. v. IEPA and County of Saline (Intervenor), PCB 04-117 (May 6, 2004). On January 8, 2004, Saline County Landfill, Inc. (SCLI) filed a petition for review of a determination by the Illinois Environmental Protection Agency (IEPA) to deny a permit for expansion of the landfill located in Harrisburg, Saline County. The IEPA denied the permit because the IEPA determined that SCLI did not provide proof pursuant to 39(c) of the Environmental Protection Act (Act) (415 ILCS 5/39(c) (2002) that SCLI had local siting approval for the expansion of the landfill pursuant to Section 39.2 of the Act (415 ILCS 5/39.2 (2002)). On February 19, 2004, the Board granted a motion by Saline County to intervene in this proceeding in support of the permit denial. The Board found that the IEPA determination was incorrect. The Board remanded the matter to the IEPA, directing the IEPA to issue the requested permit.

The issue in this case was whether or not SCLI's 1996 local siting approval for the expansion of the landfill continued to be valid. The resolution of that issue required a reading of Section 39.2(f) of the Act (415 ILCS 5/39.2(f) (2002)) which provides in part that:

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approval shall expire at the end of 3 calendar years from the date upon which it was granted, and unless within that period the applicant has made application to the [IEPA] for a permit to develop the site. 415 ILCS 5/39.2(f) (2002).

The plain language of Section 39.2(f) of the Act (415 ILCS 5/39.2(f) (2002)) states that local siting expires *unless* an application is made to the IEAP for development of the site within three years of local siting approval. All parties agreed that SCLI did apply for a permit within three years but that the permit was denied. *See Saline County Landfill, Inc. v. IEPA and County of Saline (Intervenor)*, PCB 2002-108 (May 16, 2002). Thus, under the plain language of the statute, a permit application for development of the site was filed within three years of siting approval.

The crux of the Board's holding was:

The statutory language is silent regarding time limitations if the [IEPA] denies a permit. This is the point where the parties disagree. The [IEPA] and Saline County argue here, that the statutory language means that the local siting approval has expired because the instant application was filed after the three years. SCLI argues that, having timely filed a permit application and diligently sought a permit, the 1996 siting has not expired.

The Board is persuaded that the local siting approval has not expired. The statutory language includes other scenarios for when siting expires besides the three-year time limitation. The statute is silent regarding an [IEPA] permit denial. Clearly, the legislature understood that not all permits are granted. Thus, the Board finds that, the legislature's failure to include a scenario wherein the [IEPA] denies a permit, indicates the legislature did not intend for a denial of a permit to have any affect on the three-year time limitation. As long as an application to develop the site is filed within three years of local siting approval, whether or not that permit is granted, the Board finds that the requirements of Section 39.2(f) of the Act (415 ILCS 5/39.2(f) (2002)) are met and local siting does not expire. *Saline County Landfill, Inc. v. IEPA and County of Saline (Intervenor)*, PCB 04-117 (May 6, 2004), slip op. at 16

Rule Update

Board Adopts Final Opinion and Order in RCRA Subtitle C Update, USEPA Amendments (January 1, 2004 through June 30, 2004 and October 25, 2004) (R05-02)

On March 3, 2005, the Board adopted a final opinion and order in RCRA Subtitle C Update, USEPA Amendments (January 1, 2004 through June 30, 2004 and October 25, 2004) (R05-02). The rulemaking adopts amendments to the Illinois regulations that are "identical in substance" to hazardous waste regulations adopted by the United States Environmental Protection Agency (USEPA). The USEPA rules implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2002)). The Board made only minor, nonsubstantive changes to the proposal that was published in the January 3, 2005 issue of the *Illinois Register* at 28 Ill. Reg. 132, 154, 207, and 232. The Board will hold the amendments for 30 days to give the United States Environmental Protection Agency time to review the final amendments before filing them with the Secretary of State.

The substantive amendments adopted in this update dealt with the USEPA actions of April 22, 2004 (69 Fed. Reg. 21737), April 26, 2004 (69 Fed. Reg. 22602), and October 25, 2004 (69 Fed. Reg. 62217).

The USEPA action of April 22, 2004 (69 Fed. Reg. 21737) applies only to members of the National Environmental Performance Track Program. The amendments relax existing requirements for members of that program. The amendments extend from 90 days to 180 days the time during which a generator of hazardous waste may

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accumulate hazardous waste on-site. If the generator accumulates hazardous waste on-site for longer than the allowable accumulation time, its facility is designated a hazardous waste treatment, storage, and disposal facility. The amendments impose various waste and facility management requirements, advanced notice, recordkeeping, and reporting requirements on the generator as conditions to the extended accumulation time.

On October 25, 2004 (69 Fed. Reg. 62217), USEPA adopted corrections to the April 22, 2004 amendments. The original rule did not impose the facility and waste management standards of Subparts C, D, AA, BB, and CC on the management of the accumulating hazardous waste. These requirements pertain to preparedness and prevention, contingency planning and emergency procedures, and air emissions from process vents; equipment leaks; and tanks, surface impoundments, and containers. USEPA stated that it had inadvertently omitted the references to these requirements from the final amendments.

The USEPA action of April 26, 2004 (69 Fed. Reg. 22602) was primarily an action under Section 112 of the federal Clean Air Act (42 U.S.C. 7412 (2003)), which requires USEPA to establish national emission standards for hazardous air pollutants (NESHAPs) for new and existing major sources. The NESHAPs are to reflect the maximum degree of reduction in hazardous air pollutant (HAP) emissions achievable (MACT). The MACT standard requires all major sources to achieve the HAP emissions reductions already achieved by the best-operated sources. Only one segment of the new NESHAP pertains to hazardous waste: the management of captured purge materials from coating equipment. The management of these materials may be subject to the hazardous waste standards for equipment leaks in Subparts BB of Parts 264 and 265 of the federal standards for hazardous waste treatment, storage, and disposal facilities (equivalent to Subparts BB and CC of 35 Ill. Adm. Code 724 and 725). The amendments very clearly exempt from regulation under Subparts BB of Parts 264 and 265 those purged coatings and solvents from surface coating operations that are subject to the NESHAP applicable to surface coating of automobiles and light-duty trucks.

Copies of the Board's opinion and order in R05-02 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Michael J. McCambridge at 312-814-6924; e-mail address mccambm@ipcb.state.il.us

Board Adopts Proposal for Public Comment in Definition of VOM Update, USEPA Amendments (July 1, 2004 through December 31, 2004) (R05-16)

On March 3, 2005, the Board adopted a proposal for public comment in Definition of VOM Update, USEPA Amendments (July 1, 2004 through December 31, 2004) (R05-16). This rulemaking proposes amendments to update the definition of "volatile organic material" (VOM) in the Board's air pollution regulations (35 Ill. Adm. Code 211.7150). The update is needed to ensure that Illinois' regulations reflect the United States Environmental Protection Agency's (USEPA) most recent exemption of chemical compounds from regulation as ozone precursors. The Board sent the proposal to the Secretary of State's Index Department for publication in the March 4, 2005 issue of the *Illinois Register* at 29 Ill. Reg. 4323.

Section 9.1(e) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(e) (2002)) mandates this rulemaking. That statutory provision requires the Board to exclude from the definition of VOM those compounds determined by USEPA to be exempt from regulation under the state implementation plans for ozone "due to negligible photochemical reactivity." 415 ILCS 5/9.1(e) (2002). In addition, Section 9.1(e) of the Act requires the Board to conduct this rulemaking pursuant to the provisions of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2002)) for adopting rules that are "identical in substance" to the federal requirements.

Section 9.1(e) also provides that Title VII of the Act and Section 5-35 of the Administrative Procedure Act (APA) (5 ILCS 100/5-35 (2002)) do not apply to this type of rulemaking. However, as provided in Section 9.1(e) of the Act, the Board, before adopting final rule amendments, will provide notice of this rulemaking proposal in the *Illinois Register*, hold one public hearing on the proposal as required by the federal Clean Air Act (33 U.S.C. § 7410(a) (2003)), and allow for public comment.

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The amendments proposed in this rulemaking address two USEPA amendments to the federal definition of “volatile organic compound” (VOC), which is the same as VOM as used in the Illinois regulations. First, on November 29, 2004, USEPA added four compounds to the list of chemical species that are exempt from the federal definition of VOC and, accordingly, are exempt from regulation for control of ozone precursors. Second, also on November 29, 2004, USEPA excluded an additional compound from the VOC definition, for purposes of emissions limitations and VOC content requirements, but retained the compound as VOC for purposes of recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements.

The Board’s proposal seeks to incorporate these federal amendments into the Illinois regulatory definition of VOM at 35 Ill. Adm. Code 211.7150, with only minor differences from the federal rule text.

Copies of the Board’s opinion and order in R05-16 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board’s Web site at www.ipcb.state.il.us.

As required by the federal Clean Air Act (33 U.S.C. § 7410(a) (2003)), the Board has also scheduled a public hearing in this rulemaking:

10:00 am, Tuesday, April 12, 2005,
James R. Thompson Center,
Illinois Pollution Control Board Hearing Room 11-512,
100 West Randolph Street, Chicago, IL 60601

For additional information contact the hearing officer, Richard McGill, at 312-814-6983; e-mail address mcgillr@ipcb.state.il.us

Board Adopts Second First Notice Proposal in Proposed New and Updated Rules for Measurement and Numerical Sound Emissions Standards, Amendments to 35 Ill. Adm. Code 901 and 910; March 2004 Proposal Formally Withdrawn (R03-09)

On March 17, 2005, the Board adopted a second first notice opinion and order in Proposed New and Updated Rules for Measurement and Numerical Sound Emissions Standards, Amendments to 35 Ill. Adm. Code 901 and 910 (R03-09). This supersedes the July 2003 first notice opinion and order in this rulemaking; the Board withdrew the prior first notice proposal on March 4, 2004 in response to public comments after finding that additional hearings were necessary to develop a complete record and to address Sections of the rules that were not included in the initial proposal. The Notice of Withdrawal (published at 27 Ill. Reg. 11908) concerns the superseded first notice proposal (published at 27 Ill. Reg. 11908 (July 25, 2003)).

The Board’s March 2005 first notice proposal was received by the Secretary of State’s Index Department and will be published in the April 15, 2005 issue of the *Illinois Register*.

The Board itself opened this rulemaking to update Parts 901 and 910 of its noise regulations found in 35 Ill. Adm. Code Subtitle H. As no one had proposed updates to the Board since 1987, many of the sound measurement definitions and techniques in the existing rules do not reflect present scientific standards. The Board also found that some of the existing site-specific needed review.

The proposed changes to Part 901 replace the existing 1965 Standard Land Use Coding Manual (SLUCM) codes with the Land-Based Classification Standards (LBCS) codes, a consistent model for classifying land uses based on a multi-dimensional land use classification model based land classification. The proposed changes to Section 901.104 clarify that the impulsive sound standards are based on 1-hour A-weighted equivalent sound levels. The Board also proposes to revise the numeric standards to bring highly impulsive noise standards into conformity with the standards set forth in Sections 901.102 and 901.103 in terms of the effective community response.

This proposal includes the revision of outdated numerical sound emission standards for property line noise sources found at 35 Ill. Adm. Code Parts 901.

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The Board received comments from four companies that are subject to site-specific noise regulations: Moline Forge, Scot Forge, Vaughan and Bushnell Manufacturing Company, and Internet Decatur Foundry. Moline Forge was the only company that did not seek any changes to the regulations. In response to comments filed by the other companies the Board is proposing amendments to the site-specific regulations to more accurately reflect the companies' current operating conditions.

The proposed new Part 910 sets forth the measurement procedures for enforcing the Board's noise standards in Parts 900 and 901. These procedures are essentially based upon the Illinois Environmental Protection Agency's noise measurement protocols at 35 Ill. Adm. Code 951. In addition to the measurement techniques, the proposal contains general requirements and specific instrument requirements. The proposed Appendix A includes tables (obtained from extensive measurements) that can be used to determine the long-term background ambient noise levels in instances where direct measurements cannot be made.

As the Board held three hearings concerning the July 2003 first notice proposal, the Board does not presently expect to hold hearings on the March 2005 proposal during the second first notice period.

Copies of the Board's opinion and order in R03-9 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact the hearing officer, Marie Tipsord, at 312-814-4925; e-mail address tipsorm@ipcb.state.il.us.

Board Adopts Final Opinion and Order in RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2004 through June 30, 2004) (R05-1)

On March 17, 2005, the Board adopted a final opinion and order in RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2004 through June 30, 2004) (R05-1). The rulemaking adopted amendments to the Illinois regulations that are "identical-in-substance" to municipal solid waste landfill (MSWLF) regulations adopted by the United States Environmental Protection Agency (USEPA). These USEPA rules implement Subtitle D of the Resource Conservation and Recovery Act of 1976, 42 U.S.C §§ 6941-6949, (RCRA Subtitle D). This docket includes federal MSWLF amendments that USEPA adopted in the period January 1, 2004 through June 30, 2004. The final amendments were filed with the Secretary of State's Index Department and will be published in the April 8, 2005 issue of the *Illinois Register*.

In brief summary, this rulemaking adopted amendments to 35 Ill. Adm. Code 810, 811, and 813. These rules are identical in substance to the one USEPA rulemaking during the update period: a March 22, 2004 amendment (69 Fed. Reg. 13242) to allow states to grant temporary research, development, and demonstration (RD&D) permits. Specifically, the RD&D permits would allow exceptions to very limited landfill requirements to allow the use of innovative technologies at landfills. In response to public comments, the Board adopted amendments which allow the Illinois Environmental Protection Agency to issue RD&D permits without first having the landfill operator receive and adjusted standard from the Board.

More specifically, the USEPA RD&D permits action of March 22, 2004 (69 Fed. Reg. 13242) allows the use of innovative technology and practices at municipal solid waste landfills (MSWLFs). USEPA adopted a new provision at 40 C.F.R. 258.4 allowing the states to grant a "variance" from very specific generally applicable requirements:

- 1) 40 C.F.R. 258.26(a)(1), requiring the control of run-on to the active portion of the landfill from the peak discharge of a 25-year storm event (corresponding with 35 Ill. Adm. Code 811.103(b)(1) and (b)(2) of the Board's regulations);
- 2) 40 C.F.R. 258.28(a), prohibiting the placement of bulk or non-containerized liquid waste in a landfill except under very limited circumstances (corresponding with 35 Ill. Adm. Code 811.107(m)(1)); and

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3) 40 C.F.R. 258.60(a)(1), (a)(2), and (b)(1), requiring the use of a final cover system that minimizes erosion and infiltration into a landfill, which includes specific requirements pertaining to such criteria as permeability, thickness of each layer, and the ability of the cover material to sustain native plant growth (corresponding with 35 Ill. Adm. Code 811.314(a) through (c)).

Bioreactor Landfills Now Allowed Through Temporary Research, Development, and Demonstration Permits

The purpose of the federal amendments is to allow the operation of bioreactor landfills, which operate much differently from conventional landfills. A conventional landfill is designed to lessen the potential for groundwater contamination by minimizing the infiltration of rainwater, restricting the placement of liquid wastes in the landfill, and minimizing the hydraulic head on the bottom liner to minimize percolation of contaminated leachate into the ground. As USEPA explains in the preamble discussion of the federal amendments, a bioreactor landfill takes a different approach in order to more rapidly stabilize the landfill:

Bioreactor means a MSW landfill or portion of a MSW landfill where any liquid other than leachate (leachate includes landfill gas condensate) is added in a controlled fashion into the waste mass (often in combination with recirculating leachate) to reach a minimum average moisture content of at least 40 percent by weight to accelerate or enhance the anaerobic (without oxygen) biodegradation of the waste. 69 Fed. Reg. 13242, 13246 (Mar. 22, 2004) (quoting the definition of “bioreactor” in the national emission standards for hazardous air pollutants (NESHAPs) rule in Subpart AAAA of 40 C.F.R. 63 (2003)).

The generally-applicable federal landfill management requirements act as restrictions on the ability to operate a bioreactor landfill. The operation of a bioreactor landfill requires the reintroduction of contaminated liquid to the waste in the landfill, which is not allowed under the requirements of 40 C.F.R. 258.26(a)(1), 258.28(a), and 258.60(a)(1), (a)(2), and (b)(1) (corresponding with 35 Ill. Adm. Code 811.103(b)(1) and (b)(2), 811.107(m)(1), and 811.314(a) through (c) of the Illinois regulations). The RD&D permit rule would allow relief from these rules to permit the experimental operation of a bioreactor landfill.

Under the new federal provision, certain limitations apply to the availability of an RD&D permit. To obtain an RD&D permit that allows alternative practices to the generally applicable run-on control system requirements and/or the prohibition against placement of bulk or non-containerized liquids, the applicant must design and construct the landfill’s leachate collection system so as to maintain less than a 30-centimeter (cm) leachate depth on the bottom liner of the landfill. To obtain an RD&D permit that allows the use of alternative practices to the generally applicable final cover requirements, the owner or operator must demonstrate that infiltration of liquid through the alternative cover will not cause contamination of groundwater or surface water or cause the leachate depth on the liner to exceed 30 cm. In issuing an RD&D permit the IEPA must include whatever terms and conditions are necessary “to assure protection of human health and the environment.” See 40 C.F.R. 258.4(c) (2004).

Copies of the Board’s opinion and order in R05-06 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board’s Web site at www.ipcb.state.il.us.

For additional information contact Michael J. McCambridge at 312-814-6924; e-mail address mccambm@ipcb.state.il.us

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Board Adopts Joint Illinois Environmental Protection Agency/ Illinois Environmental Regulatory Group Proposal for Hearing in Proposed Amendments to Exemptions from State Permitting Requirements (35 Ill. Adm. Code 201.146) (R05-19)

On March 17, 2005, the Board adopted a proposal for hearing in Proposed Amendments to Exemptions from State Permitting Requirements (35 Ill. Adm. Code 210.146) (R05-19). The proposal was filed jointly by the Illinois Environmental Protection Agency (IEPA) and the Illinois Environmental Regulatory Group (IERG) on February 22, 2005. The proposal seeks to add four categories to the existing list of exemptions from state air permit requirements in Section 201.146. According to the proponents, the purpose of the proposal is to eliminate permitting delays for minor projects having little environmental or regulatory impact:

1. Owners or operators replacing or adding air pollution control equipment at existing units-- proposed subsection (hhh). The proposed exemption would only apply to existing units, which are permitted and have operated in compliance for the past year. The new pollution control equipment must maintain or improve air pollution control over the prior levels of target pollutants, and not result in a net increase in emissions of any collateral pollutant. This exemption would not apply if the installation or operation of the new or replacement pollution controls would trigger or change applicability of different regulatory requirements. Finally, required monitoring equipment must be carried over to the replacement control device and must incorporate current technology.
2. “De minimis” projects at sources with federally enforceable state operating permits (FESOP) limiting their potential to emit pollutants-- proposed subsection (iii). The proponents claim that there can be some projects at FESOP sources that do not fit under any of the existing listed exemptions under Section 201.146 and that are still insignificant from a permitting standpoint. Under this “de minimis” permitting second exemption, permits would be unnecessary for projects at truly minor FESOP sources with a low potential to emit any regulated air pollutant absent air pollution equipment from the new or modified unit that have no outstanding compliance or enforcement issues. However, raw materials and fuels that cause or contribute to emissions must not contain a hazardous air pollutant equal to or greater than 0.01 percent by weight. Also, this exemption is not available to a source that must meet New Source Performance Standards and New Source Review requirements under the Clean Air Act.
3. New units or modifications to existing units at minor sources without FESOPs--section (jjj). This third exemption, like the second in subsection (iii), would be limited to sources with the same low potential to emit any regulated air pollutant absent air pollution equipment from the new or modified unit that have no outstanding compliance or enforcement issues. But, the exemption would also be available for minor sources that have a slightly greater potential to emit, so long as the facility notifies the IEPA of its intent to construct or install a new emissions unit or modification. Only after notifications can the facility begin construction, installation, or modification. This provision, state the IEPA and IERG, would require permitting if the additional emissions from the project could change the sources’ status with respect to its potential to emit. This exemption is also not available to a source that must meet New Source Performance Standards and New Source Review requirements under the Clean Air Act.
4. Insignificant activities-- proposed subsection (kkk). The proposal would create a list of permit exempt insignificant activities similar to those for CAAPP sources. See 35 Ill. Adm. Code 201.210 through 210.211. Instead of applying for a permit, owners or operators would only notify the Agency when they add insignificant activities. Facilities must still comply with otherwise applicable emission standards or other regulatory requirements.

In its March 17, 2004 order, the Board also scheduled two public hearings on the proposal:

10:00 am, Tuesday, April 12, 2005,
James R. Thompson Center,
Illinois Pollution Control Board Hearing Room 11-512,
100 West Randolph Street, Chicago, IL 60601; and
10:00 am on Tuesday, June 14, 2005,
Illinois Pollution Control Board Hearing Room,
1021 North Grand Avenue East, North Entrance,
Springfield, IL 62794.

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The order also sets requirements and deadlines for service and filing of pre-filed testimony.

Copies of the Board's opinion and order in R05-19 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact the hearing officer, Amy Antonioli, at 312-814-3665; e-mail address antoniao@ipcb.state.il.us.

Board Actions

March 3, 2005
Springfield, Illinois

Rulemakings

R05-2	<u>In the Matter of: RCRA Subtitle C Update, USEPA Amendments (January 1, 2004 through June 30, 2004 and October 25, 2004)</u> – The Board adopted a final opinion and order in this “identical-in-substance” rulemaking amending the Board’s hazardous waste regulations.	5-0 R, Land
R05-16	<u>In the Matter of: Definition of VOM Update, USEPA Amendments (July 1, 2004 through December 31, 2004)</u> – The Board adopted a proposal for public comment in this “identical-in-substance” rulemaking to amend the Board’s volatile organic material regulations.	5-0 R, Air

Adjusted Standards

AS 05-4	<u>In the Matter of: Petition of SCA Tissue North America, L.L.C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(C)</u> – The Board granted petitioner’s motion to incorporate the record from <u>In re Petition of SCA Tissue of North American, L.L. C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(c)</u> , AS 05-1 into this proceeding and accepted this matter for hearing.	5-0 Air
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Administrative Citations

AC 05-43	<u>County of Macon, Illinois v. David Beck</u> – The Board found that this Macon County respondent violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2002)), and ordered respondent to pay a civil penalty of \$3,000.	5-0
AC 05-46	<u>IEPA v. Lawrence Krueger</u> – The Board found that this Cook County respondent violated Sections 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2002)), and ordered respondent to pay a civil penalty of \$3,000.	5-0

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AC 05-49	<u>IEPA v. Landers' Children Family, L.L.C. and Ray Landers</u> – The Board granted complainant's motion to dismiss the administrative citation for lack of timely service.	5-0
AC 05-52	<u>IEPA v. Robert Daniel Spears</u> – The Board accepted for hearing this petition for review of an administrative citation against this Cass County respondent.	5-0
AC 05-54	<u>IEPA v. Ray Logsdon Estate, Logsdon Sand and Gravel and M.K. O'Hara Construction, Inc.</u> – The Board accepted for hearing a petition for review on behalf of M.K. O'Hara Construction, Inc. in this administrative citation against these Cass County respondents. The Board directed respondent M.K. O'Hara Construction, Inc. to file an amended petition for review accompanied by an attorney's appearance within 30 days from the date of this order, or the Board will dismiss this petition.	5-0

Decisions

PCB 04-50	<u>People of the State of Illinois v. MacMurray College</u> – In this air enforcement action concerning a Morgan 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to implement and complete a supplemental environmental project (SEP) in lieu of paying a civil penalty and to cease and desist from further violations. Under the SEP, respondent agrees to collect used computers and computer monitors from the community, donate the usable equipment to charitable organizations for use or resale, and dispose of the non-usable equipment in an environmentally acceptable manner.	5-0 A-E
PCB 04-94	<u>People of the State of Illinois v. Hauck Homes, Inc. d/b/a Rock River Estates Mobile Home Park</u> – In this water enforcement action concerning a Lee 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$12,000 and to cease and desist from further violations.	5-0 W-E
PCB 05-8	<u>People of the State of Illinois v. Village of Capron</u> – In this public water supply enforcement action concerning a Boone 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$1,000 and to cease and desist from further violations.	5-0 PWS-E
PCB 05-78	<u>People of the State of Illinois v. Ralph Stone, Mayor of the Village of Gorham</u> – In this air enforcement action concerning a Jackson 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total	5-0 A-E

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civil penalty of \$500 and to cease and desist from further violations.

PCB 05-92	<u>People of the State of Illinois v. Specialty Promotions, Inc. d/b/a Specialty Printing Company</u> – In this air enforcement action concerning a Cook 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$75,000 and to cease and desist from further violations.	5-0 A-E
PCB 05-96	<u>People of the State of Illinois v. Village of North City, Lawrence A. Lipe & Associates, Inc., Altman-Charter Company, and Furlong Excavating, Inc.</u> – In this public water supply enforcement action concerning a Boone 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) (2002)), accepted three stipulation and settlement agreements as to Lawrence A. Lipe & Associates, Inc., Furlong Excavating, Inc. and Altman-Charter Company. Lawrence A. Lipe & Associates, Inc. was ordered to pay a civil penalty of \$5,000. Furlong Excavating, Inc. was ordered to pay a civil penalty of \$500 and to perform a supplemental environmental project by donation of \$2,000 to the Benton School District Greening Program. Altman-Charter Company was ordered to pay a civil penalty of \$2,000. The respondents also were ordered to cease and desist from further violations. This case remains open as to the sole remaining respondent, the Village of North City.	5-0 PWS-E

Motions and Other Matters

PCB 04-1	<u>SCI Illinois Services, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of these consolidated underground storage tank appeals involving a Cook County facility.	5-0
PCB 04-3 (Cons.)		UST Appeal
PCB 04-138	<u>People of the State of Illinois v. Pinnacle Corporation d/b/a Town & Country Homes</u> – The Board granted complainant’s motion for leave to amend complaint and accepted the first amended complaint. 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 Lake County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 04-178	<u>People of the State of Illinois v. Ned Mandich d/b/a H.B.M. Electrochemical</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
PCB 05-29	<u>Mather Investment Properties, L.L.C. v. Illinois State Trapshooters Association, Inc.</u> – The Board granted the parties’ agreed motion for an additional 90 days in which to file an answer, now due on or before May 17, 2005.	5-0 Citizens L-E

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PCB 05-32	<u>People of the State of Illinois v. GTC, International</u> – The Board granted complainant’s motions to deem facts admitted and for summary judgment on all ten counts of the complaint. The Board directed the parties to hearing on the issue of remedy.	5-0 A-E
PCB 05-102	<u>Village of Crainville v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Williamson County facility.	5-0 UST Appeal
PCB 05-108	<u>William Breuer v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility.	5-0 UST Appeal
PCB 05-155	<u>Midwest Petroleum Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a St. Clair County facility.	5-0 UST Appeal
PCB 05-156	<u>Vision Properties Blue Island, L.L.C. 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 Cook County facility.	5-0 P-A, RCRA 90-Day Ext.
PCB 05-158	<u>Wilson Sporting Goods 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 Cook County facility.	5-0 UST Appeal 90-Day Ext.

March 17, 2005
Chicago, Illinois

Rulemakings

R03-9	<u>In the Matter of: Proposed New and Updated Rules for Measurement and Numerical Sound Emissions Standards Amendments to 35 Ill. Adm. Code 901 and 910</u> – The Board adopted a first notice opinion and order proposing to amend the Board’s noise regulations.	5-0 R, Noise
R05-1	<u>In the Matter of: RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2004 through June 30, 2004)</u> – The Board adopted a final opinion and order in this “identical-in-substance” rulemaking amending the Board’s municipal solid waste landfill regulations.	5-0 R, Land
R05-19	<u>In the Matter of: Proposed Amendments to Exemptions from State Permitting Requirements (35 Ill. Adm. Code 201.146)</u> – The Board accepted for hearing the Illinois Environmental Protection Agency and Illinois Environmental Regulatory	5-0 R, Air

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Group February 22, 2005 proposal to amend the Board's air regulations.

Adjusted Standards

AS 05-2	<u>In the Matter of: Petition of the Village of Bensenville for an Adjusted Standard from 35 Ill. Adm. Code 620-410 Regarding Chloride and Lead</u> – The Board accepted for hearing petitioner's amended petition and granted the motion to file reduced copied of the amended petition.	5-0 PWS
AS 05-3	<u>In the Matter of: Waste Management of Illinois, Inc. for RCRA Waste Delisting Under 35 Ill. Adm. Code 720.122 for Solid Treatment Residual from CID Recycling and Disposal Facility Biological Liquid Treatment Center</u> – The Board dismissed this petition for an adjusted standard for petitioner's failure provide proof of service on the Illinois Environmental protection Agency, a statement in the petition indicating whether the petitioner requests or waives hearing, and to timely publish notice of the filing of the petition by advertisement in a newspaper of general circulation in the area likely to be affected, as required by Section 28.1 of the Environmental Protection Act (415 ILCS 5/28.1(d)(1) (2002)).	5-0 Land
AS 05-5	<u>In the Matter of: Petition of Ford Motor Company for an Adjusted Standard from 35 Ill. Adm. Code 218.586</u> – The Board accepted for hearing this request for adjusted standard on behalf of this Cook County petitioner.	5-0 Air

Administrative Citations

AC 05-47	<u>IEPA v. Stacy Hess</u> – The Board accepted for hearing respondent's amended petition for review of an administrative citation against this Tazewell County respondent.	5-0
AC 05-48	<u>County of Jackson v. Southern Illinois Regional Landfill, Inc., Doug Ticer, and George Browning</u> – The Board found that these Jackson County respondents violated Sections 21(o)(5) and (o)(12) of the Act (415 ILCS 5/21(o)(5), (o)(12) (2002)), and ordered respondents to pay a civil penalty of \$1,000.	5-0
AC 05-50	<u>IEPA v. Knox County Landfill Committee and Greg Ingle</u> – The Board found that these Jackson County respondents violated Sections 21(o)(5) of the Act (415 ILCS 5/21(o)(5) (2002)), and ordered respondents to pay a civil penalty of \$500.	5-0
AC 05-51	<u>County of Sangamon v. Patrick O'Keefe</u> – The Board accepted for hearing this petition for review of an administrative citation against this Sangamon County respondent.	5-0

Decisions

PCB 03-101	<u>People of the State of Illinois v. Werner, Co.</u> – In this air enforcement action concerning a Cook 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$32,000, to operate and maintain all equipment and systems relating to a Supplemental Environmental Project at its Franklin Park facility, and to cease and desist from further violations.	5-0 A-E
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Motions and Other Matters

PCB 93-17	<u>Phibro-Tech f/k/a Southern Chemical Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a McHenry County facility.	5-0 P-A, RCRA
PCB 04-68	<u>Martin Oil Marketing, Ltd. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Cook County facility.	5-0 UST Appeal
PCB 04-93	<u>Martin Oil Marketing, Ltd. V. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a McLean County facility.	5-0 UST Appeal
PCB 04-128	<u>WEWS, L.P. (the Boye Needle Facility) v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Cook County facility.	5-0 UST Appeal
PCB 04-190	<u>Johnson Oil Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Champaign County facility.	5-0 UST Appeal
PCB 04-207 PCB 97-193	<u>People of the State of Illinois v. Community Landfill Company, Inc. and People of the State of Illinois v. Edward Pruim an individual, and Robert Pruim, an individual</u> – The Board granted complainant’s motion to strike the second affirmative defense.	5-0 W-E
PCB 05-48	<u>Illinois Ayers Oil Company v. IEPA</u> – The Board denied petitioner’s motion for reconsideration of the Board’s January 6, 2005 order, dismissing the petition as untimely filed.	5-0 UST Appeal
PCB 05-60	<u>People of the State of Illinois v. Youssi Real Estate and Development, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Boone County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 05-96	<u>People of the State of Illinois v. Village of North City, Lawrence A. Lipe & Associates, Inc., Altman-Charter Company, and Furlong Excavating, Inc.</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 Franklin County facility, the Board ordered publication of the required newspaper notice as to Village of North City. The Board also granted complainant’s motion for modification of the Board’s March 3, 2005 order regarding the Altman-Charter Company proposed stipulation and settlement agreement. The modified order requires respondent to pay a civil	5-0 PWS-E

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penalty of \$500 and to perform a supplemental environmental project by donation of \$2,000 to the Benton School District Greening Program.

PCB 05-100	<u>Estate of Irene Steinheimer v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Morgan County facility.	5-0 UST Appeal
PCB 05-159	<u>Fruendt Crop Services, Inc. (Property Identification Number 11-26-03-300-010) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Fruendt Crop Services, Inc. located in Kankakee County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C Land
PCB 05-160	<u>Precision Pork, L.L.C. (Property Identification Number 12-14-29-200-003) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Precision Pork, L.L.C. located in Lee County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C Land
PCB 05-161	<u>Crest Automotive 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 Cook County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-162	<u>Ye Olde Glass Shoppe 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 Clark County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-163	<u>People of the State of Illinois v. Pekin Paperboard Company, L.P.</u> – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County.	5-0 W-E
PCB 05-164	<u>Rohm and Haas Company v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Kankakee County facility.	5-0 P-A, Air
PCB 05-165	<u>Century Chevy 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 McLean County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-166	<u>Clinton County Oil Company, Inc. 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	5-0

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this Madison County facility.

UST Appeal
90-Day
Ext.

PCB 05-167

Clinton County Oil Company, Inc. 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 Madison County facility.

5-0
UST Appeal
90-Day
Ext.

New Cases

March 3, 2005 Board Meeting

05-156 Vision Properties Blue Island, L.L.C. 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 Cook County facility.

05-157 Grand Pier Center L.L.C. and American International Specialty Lines Insurance Co. as subrogee of Grand Pier Center L.L.C. v. River East L.L.C., Chicago Dock and Canal Trust, Chicago Dock and Canal Company, and Kerr-McGee Chemical L.L.C. – The Board held for a later duplicative/frivolous determination this citizens' land enforcement action involving a Cook County facility.

05-158 Wilson Sporting Goods 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 Cook County facility.

AS 05-005 In the Matter of: Petition of SCA Tissue North America, L.L.C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(C) – Pending receipt of the certificate of publication, the Board held this Cook County facility's petition for an adjusted standard from the Board's volatile organic material emission standards and limitations for the Chicago area.

R05-019 In the Matter of: Proposed Amendments to Exemptions from State Permitting Requirements (35 Ill. Adm. Code 201.146) – No action taken.

March 17, 2005 Board Meeting

05-159 Fruendt Crop Services, Inc. (Property Identification Number 11-26-03-300-010) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Fruendt Crop Services, Inc. located in Kankakee County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-160 Precision Pork, L.L.C. (Property Identification Number 12-14-29-200-003) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Precision Pork, L.L.C. located in Lee County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-161 Crest Automotive 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 Cook County facility.

05-162 Ye Olde Glass Shoppe 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 Clark County facility.

05-163 People of the State of Illinois v. Pekin Paperboard Company, L.P. – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County.

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05-164 Rohm and Haas Company v. IEPA – The Board accepted for hearing this permit appeal involving a Kankakee County facility.

05-165 Century Chevy 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 McLean County facility.

05-166 Clinton County Oil Company, Inc. 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 Madison County facility.

05-167 Clinton County Oil Company, Inc. 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 Madison County facility.

AC 05-057 IEPA v. Leonard Harris – The Board accepted an administrative citation against this Boone County respondent.

AC 05-058 IEPA v. Knox County Landfill Committee – The Board accepted an administrative citation against this Knox County respondent.

AC 05-059 IEPA v. Dale and Carol Hartley – The Board accepted an administrative citation against these Edgar County respondents.

Calendar

4/5/05 10:00 AM	R05-9	In the Matter of: Setback Zone for City of Marquette Heights Community Water Supply, New 35 Ill. Adm. Code 618	James R. Thompson Center Room 2-025 100 W. Randolph Street Chicago
4/6/05 9:00 AM	PCB 04-186	Waste Management of Illinois, Inc. v. County Board of Kankakee County, Illinois	County Administration Building County Board Room – 4th Floor 189 East Court Street Kankakee
4/7/05 9:00 AM	PCB 04-186	Waste Management of Illinois, Inc. v. County Board of Kankakee County, Illinois	County Administration Building County Board Room – 4th Floor 189 East Court Street Kankakee
4/7/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Videconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
4/8/05 9:00 am	PCB 04-186	Waste Management of Illinois, Inc. v. County Board of Kankakee County, Illinois	County Administration Building County Board Room – 4th Floor 189 East Court Street Kankakee
4/15/05 10:00 AM	PCB 05-155	Midwest Petroleum Company v. IEPA	Belleville City Hall Council Chambers 101 S. Illinois Street Belleville

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4/21/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Hearing Room 9-040 100 W. Randolph Street Chicago
4/28/05 10:30 AM	AC 04-77	IEPA v. Frank Bencie	Benton City Hall Council Chambers 500 W. Main Street Benton
5/5/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Illinois Pollution Control Board Board Room 1021 N. Grand Avenue East Springfield
5/10/05 9:00 AM	PCB 04-12	Teresa L. Shepro, as Trustee of the Justice W. Shepro Trust, and Teresa L. Shepro and Frank Wiemerslage, as beneficiaries under Trust No. 898 of the Chicago Trust Company v. Newby Oil Company, David E. Tripp and Janice L. Tripp	City Hall Annex Council Chambers 128 E. Railroad Sandwich
5/19/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Hearing Room 9-040 100 W. Randolph Street Chicago

Boone Creek Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (Illinois EPA) requests listing Boone Creek Fen, which is a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Boone Creek Fen is located in central McHenry County, Illinois, approximately three miles east of the City of Woodstock. The DNP is a 88.15-acre tract located in the McHenry Quadrangle, Township 44 North, Range 7 East of the Third Principal Meridian, Sections 1, 2, 11, and 12. There are four privately owned nature areas within the DNP: Boone Creek Fen, Spring Hollow, Lee Miglin Savanna, and Amberin Ash Ridge. The area contributing groundwater to, and including the DNP, is an irregularly shaped 5.04 square mile (3,225.6 acre) tract of land. The recharge area is located to the south and west of the DNP.

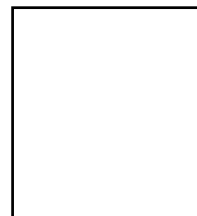
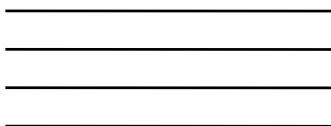
Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water 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 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.

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. In addition, the 45-day public comment period has ended, and no comments were received.

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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Environmental Register

February 2005 - Number 608

The Environmental Register is a Publication of the Illinois Pollution Control Board

J. Philip Novak, Chairman

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Letter from the Chairman

As you may know, the Board for more than a year has been considering changes to the state's Underground Storage Tank (UST) program. This consolidated proceeding, docketed as R04-22, R04-23, is one of our most significant recent rulemakings. I thank Board Member G. Tanner Girard and his attorney assistant Marie Tipsord for all of the time and effort they have committed to it.

At its February 17, 2005 meeting, the Board adopted for first notice under the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et. seq.* (2002)) regulations originally proposed in this area by the Illinois Environmental Agency (IEPA). The Board's proposal reflects testimony received in seven days of hearings and a substantial number of public comments.

Specifically, the Board proposes for first notice a rule that includes lump sum maximum payments for the performance of certain tasks, but not a scope of work for those tasks. The Board is proposing in most cases to adopt the maximum payment amounts proposed by the IEPA. The Board notes that the methods used by the IEPA to develop the rates are not ideal, but the Board duly considered the IEPA's experience administering the UST program. In addition, the first-notice proposal will include provisions for soliciting and reviewing bids for remediation tasks and for extraordinary circumstances. The Board is convinced that the first-notice proposal, as a whole, will allow for reimbursement of reasonable remediation costs.

The Board is also proposing that Stage 3 investigations be reimbursed based on a "time and materials" basis. The Board will also propose a definition for "financial interest" and prohibit reimbursement for payment of handling charges for subcontractors when the primary contractor has a financial interest in that subcontractor. The proposal will also prohibit a subcontractor from bidding on a project where the primary contractor has a financial interest in the subcontractor.

The text of the Board's order and the proposed rule are available through our Clerk's Office On-Line (COOL) at www.ipcb.state.il.us, and I invite you to take a closer look at those documents. The Board will continue to accept public comments on this matter and may also schedule another hearing. We encourage you to participate in this proceeding and to assist us in the development of sound environmental policy for the people of Illinois.

Sincerely,



J. Philip Novak
Chairman



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Federal Update

United States Environmental Protection Agency Publishes Notice of the Adequacy Status of the 1-Hour Ozone Maintenance Plan Submitted by the Illinois Environmental Protection Agency for Metro-East St. Louis Under the Clean Air Act

On February 2, 2005 (70 Fed. Reg. 5439) the United States Environmental Protection Agency (USEPA) published a notice that USEPA has found that the motor vehicle emissions budgets in the Metro-East St. Louis, Illinois 1-hour ozone maintenance plan are adequate for conformity purposes.

On March 2, 1999, the DC Circuit Court ruled that submitted State Implementation Plans (SIPs) cannot be used for conformity determinations until USEPA has affirmatively found them adequate. As a result of the finding of adequacy by USEPA, the Illinois Environmental Protection Agency can use the motor vehicle emissions budgets from the submitted 1-hour ozone maintenance plan for future conformity determinations.

These budgets are effective February 17, 2005. The finding and the response to comments will be available at USEPA's conformity Web site: www.epa.gov/otaq/transp.htm, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

For further information contact Anthony Maietta, Life Scientist, Criteria Pollutant Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777, Maietta.anthony@epa.

United States Environmental Protection Agency Proposes Amendments to the Rules Under the Clean Air Act for Prevention of Significant Deterioration for Nitrogen Oxides

On February 23, 2005 (70 Fed. Reg. 8879) the United States Environmental Protection Agency (USEPA) proposed amendments to the regulations governing the prevention of significant deterioration (PSD).

USEPA stated that it is reevaluating the increments for nitrogen oxides (NOx) that were first established in 1988 under its PSD program. This reevaluation is intended to preserve the air quality in national parks and other areas that are already meeting the national ambient air quality standards (NAAQS) for nitrogen dioxide (NO₂). USEPA is initiating this rulemaking action to comply with a 1990 court ruling that directed USEPA to consider and harmonize the statutory criteria for establishing PSD regulations for NOx contained in sections 166(c) and 166(d) of the Clean Air Act (CAA). After an initial reevaluation of the existing NO₂ increments under the statutory criteria, USEPA is proposing three options. One proposed option is not to change the existing increments. The other two options include allowing States to use alternative approaches in lieu of the existing increments for NO₂ to satisfy the statutory criteria for preventing significant deterioration of air quality due to emissions of NOx. The proposed

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options incorporate implementation of either a USEPA-administered cap and trade program or a State planning approach.

Comments must be received on or before April 25, 2005 and should be identified by Docket ID No. OAR-2004-0013. Comments can be submitted by one of the following methods: (1) EDOCKET, USEPA's electronic public docket and comment system, is USEPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments at <http://www.epa.gov/edocket>. (2) E-mail: a-and-r-docket@email.epa.gov. (3) Fax: (202) 566-1741. (4) Mail: Attention Docket ID No. OAR-2004-0013, U.S. Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

For further information contact Mr. Dan deRoeck, Information Transfer and Program Integration Division (C339-03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541-5593, fax (919) 541-5509, or e-mail at deroeck.dan@epa.gov.

United States Department of Justice Publishes Notice of Lodging of Consent Decree Under the Clean Air Act Involving Chicago Area Jewel Food Stores

On February 24, 2005 (70 Fed. Reg. 9107) the Department of Justice published notice that on February 9, 2005, a proposed consent decree in United States v. Jewel Food Stores, Inc., Civil Action No. 05C-0809, was lodged with the United States District Court for the Northern District of Illinois. Simultaneously with the lodging of the proposed consent decree, the United States also filed a complaint concerning some or all of the 194 Jewel stores that are in or near Chicago, Illinois.

In the complaint, the United States sought injunctive relief and civil penalties for violations of the commercial refrigerant repair, recordkeeping, and reporting regulations at 40 CFR 82.152-82.166 (Recycling and Emission Reduction). These rules were promulgated by the United States Environmental Protection Agency (USEPA) under Subchapter VI of the Stratospheric Ozone Protection Act, 42 USC 7671-7671q.

In the proposed consent decree, Jewel agrees to the following:

- (1) install hydrofluorocarbon (HFC or non-ozone depleting refrigerants) refrigeration systems in any new stores it opens in the Chicago Metropolitan Area after the effective date of the settlement;
- (2) implement a recordkeeping refrigerant management system directed at compliance with the regulations governing ozone-depleting refrigerants;
- (3) convert or retire any unit that uses a regulated refrigerant to a non-ozone depleting refrigerant, if that unit has more than 3 leaks in one year that leak at above an annualized rate of 35%;
- (4) convert either 75% of all scheduled "major remodels" (those remodels exceeding \$2.5 million in costs), or 25 of its stores, whichever is greater, to use a non-ozone depleting refrigerant by the end of the year 2007;
- (5) retrofit all of its current chlorofluorocarbons (CFCs) and HCFC refrigeration systems to non-ozone depleting refrigerants at twelve additional stores specified in the consent decree within three years from the date of entry of the proposed Decree; and
- (6) pay a civil penalty of \$100,000 for its past violations.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of its notice, through March 26, 2005. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, D.C. 20044-7611, and should refer to: United States v. Jewel Food Stores, Inc., D.J. Ref. 90-5-2-1-08098.

The consent decree may be examined at the Office of the United States Attorney for the Northern District of Illinois, 219 South Dearborn Street, Chicago, Illinois 60604, and at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, IL

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personal service, and that Mr. Merlin Karlock was served by regular mail. The application also stated that Mr. Mehrer and Mr. and Mrs. Keller were all served personally by posting the notice on doors of the domiciles at the address listed on the authentic tax records.

At the County's siting hearings, supplemental affidavits by Mr. Moran were submitted. Those filings show that

- a) Mr. Karlock was served by certified mail, with the receipt signed on July 27, 2002;
- b) Service by certified mail was attempted on Mr. Mehrer, who is deceased. The return receipt for Mr. Mehrer shows his address crossed out and a forwarding address inserted. The return receipt was signed and returned to Waste Management;
- c) Notice was mailed to Mr. Keller by certified mail return receipt requested; however, the letter was returned unclaimed;
- d) Mrs. Keller was not notified by certified mail and the record contains no evidence that a certified letter was mailed to Mrs. Keller.

Considerable evidence centered around attempts to serve both Mr. and Mrs. Keller. Mr. Ryan Jones attempted to serve the notice personally at the address listed on the authentic tax records for Mr. and Mrs. Keller (765 6000 South Road). Mr. Jones and Mr. and Mrs. Keller all testified at the siting hearing before the County. Mr. Jones attempted service on July 29, 2002, at 6:13 p.m., on July 30, 2002, at 1:03 p.m., July 31, 2002, at 2:34 p.m. and 8:40 p.m., and at 12:19 p.m. on August 1, 2002. Mr. Jones posted the notice to both Mr. and Mrs. Keller on August 1, 2002, at 765 6000 South Road. Mrs. Keller signed an affidavit and testified that she did not receive notice of the siting hearings. Mrs. Keller did not see a notice posted on her side door on August 1, 2002, and did not service of any document.

Mr. Keller also testified and signed an affidavit. Mr. Keller stated he did not receive notice of the siting application, did not avoid service of the notice application, did not receive notification of a letter by certified mail either at his home address, or at the family post office box. But, the record also makes clear that Mr. Keller has been a sometime truck driver for Michael Watson, petitioner in one of the consolidated cases and a business competitor of WMII. The Kellers each stated that Mr. Watson had prepared each of their affidavits regarding service, but that each had read them before signing them.

In its analysis of the issued, the Board found that the legislature has provided clear and precise instructions detailing what steps an applicant must take to provide notice. Section 39.2(b) of the Act (415 ILCS 5/39.2(b) (2002)) has three distinct elements. First, property owners listed on the authentic tax records must be served notice. Second, property owners who own property within 250 feet of the lot line of the proposed facility must be notified. Third, service on those property owners must be made using certified mail return receipt or personal service. In setting forth these elements, the Board stated, the legislature balanced the right of affected citizens to be informed with the necessity of siting landfills in Illinois.

The Board first applied the plain language of the statute to determine that adjoining property owners Mr. Keller, Mr. Mehrer, and Mr. Karlock, were properly served notice by mail. The Board found that the mailing of notice by certified mail return receipt requested was sufficient to satisfy notice requirements, citing People ex rel. v. \$30,700 U.S. Currency et al., 199 Ill. 2d 142, 766 N.E.2d 1084 (2002) (\$30,700 U.S. Currency). Under \$30,700 U.S. Currency, service is deemed complete once the notice is placed in the mail. In other words, under Section 39.2(b) of the Act (415 ILCS 5/39.2(b) (2002)), an applicant can effect service by mailing the prefiling notice to property owners certified mail return receipt and the service is proper upon mailing. The Board found the Supreme Court's decision in \$30,700 U.S. Currency effectively overruled the appellate court's decision in Ogle County Board v. PCB, 272 Ill. App. 3d 184, 649 N.E.2d 545 (2nd Dist 1995) (Ogle County) (finding that actual receipt of notice by the landowner, and not just mailing of it by the applicant, was required to effectuate service under Section 39.2 (b) of the Act).

But, the Board found that Mrs. Keller had not received either proper personal service or service by mail. The Board rejected WMII's arguments that "posting" notice and notice by regular mail (first class, no receipt requested) was

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sufficient notice of an impending landfill siting application under Section 39.2 (b) of the Act. Accordingly, the County siting approval was vacated, due to its lack of jurisdiction over WMII's improperly-noticed application.

In an October 16, 2003 summary order, the Board denied the parties' various motions to reconsider aspects of the August decision. City of Kankakee et al., PCB 03-125, 133, 134, and 135 (cons.) October 16, 2003.

In August 2004, well after the filing of appeals in the Third District Appellate Court, WMII moved for relief from the Board's final judgment in these consolidated cases, citing newly-discovered evidence among other things. The WMII filing triggered responses and related motions from the other parties. In a November 2, 2004 order, the Board declined to rule on these motions, explaining

The Board has consistently held that if a matter is filed with the Appellate Court, the Board does not consider substantive motions regarding the matter. See ESG Watts, Inc. v. IEPA, PCB 01-139 (June 6, 2002). The Board's position is consistent with that of the courts wherein the courts have found that the filing of a notice of appeal causes the jurisdiction of the appellate court to attach *instanter* and deprives the trial court of jurisdiction to modify its judgment or to rule on matters of substance, which are the subject of appeal. Cain v. Sukkar, 167 Ill. App. 3d 941, 521 N.E.2d 1292, 1294 (4th Dist. 1988); citing, Montgomery Ward & Co. v. Wetzel, 98 Ill. App. 3d 243, 423 N.E.2d 1170 (1st Dist. 1981).

This matter is pending before the Appellate Court, Third District, Docket No. 3-03-0924, and Waste Management has filed a motion before the Appellate Court asking the court to remand the case to the Board. However, at this time, the matter is before the Appellate Court and the Board's decision concerning jurisdiction is squarely before the court. The Board lacks jurisdiction to modify the Board's judgment or to rule on matters of substance, which are the subject of appeal. Therefore, the Board declines to consider the motions. City of Kankakee et al., PCB 03-125, 133, 134, and 135 (cons.)(September 2, 2004), slip op. at 1.

The Third District did not remand the case to the Board at any time prior to entry of its final order.

The Third District Order

As previously stated, the Third District Appellate Court entered its non-precedential order on February 4, 2005. The court affirmed the Board's order, which the court stated "found that the petitioner had failed to give proper notice of its filing for approval to one out of 76 affected property owners, in violation of Section 39.2(b) . . ." Waste Management of Illinois, Inc. v. Illinois Pollution Control Board, County of Kankakee, County Board of Kankakee, City of Kankakee, Merlin Karlock, Keith Runyon, and Michael Watson, No. 3-03-0924 (February 4, 2005), slip op at 1-2. The court too concluded that the county did not have jurisdiction over WMII's siting application due to faulty notice.

After reciting the facts concerning notice (*Id.*, slip op. at 2-3), the court determined that its review of the issues of the legal questions would be *de novo*, rejecting arguments that the more deferential manifest weight of the evidence should be applied instead. *Id.*, slip op. at 3-4, citing in support ESG Watts, Inc. v. Illinois Pollution Control Board, 191 Ill 2d 26, 29, 727 N.E.2d 1022, 1024 (200).

The court's analysis (as did the Board's) focused on the plain language of Section 39.2(b), which requires service on nearby property owners "either in person or by registered mail, return receipt requested." The court rejected WMII's arguments for a more expansive reading of this provision to consider sufficient "any notice that either actually or constructively places a landowner on notice." *Id.*, slip op. at 6. The court concluded that the statutory language of Section 39.2 (b) of the Act (that notice be provided "in person or by registered mail, return receipt requested") "is not the least bit ambiguous" and that, "[a]s a matter of statutory construction, then, the matter is resolved." *Ibid.*

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The court next addressed WMII's argument that prior Board case law argued in favor of a liberal construction. WMII argued that, despite the statutory specification of "registered" mail return receipt requested, the Board had found in the past that provision of notice "certified" mail, return receipt requested, satisfied Section 39.2(b). Ash v. Iroquois County Board, Ill. Pollution Control Bd. Op. 87-29, July 10, 1987. Referring to the Board's Ash finding of no substantive difference between the two types of service (registered or certified) and citing case law, the court agreed with the Board that "certified mail, return receipt requested, is the exact equivalent of registered mail, return receipt requested, for purposes of the statute. Such is not the case, however, with regular mail, which provides no assurance of receipt." *Id.*, slip op. at 7.

Noting that the statute is "clear and unambiguous," the court found that neither type of statutory service (personal or registered) was perfected with respect to Brenda Keller. The court repeated that "failure of notice is a jurisdictional issue; the county board does not have jurisdiction if all landowners have not been given notice according to the statute." *Id.*, slip op. at 7, citing *inter alia* Ogle County, *supra*, 272 Ill. App. 3d at 192.

The court agreed with the Board's application of \$30,700 US Currency to the facts at hand, summarizing the Supreme Court holding as being that

Jurisdiction is not premised on the recipient's actions, once the letter is received, but on the form of sending of the letter; jurisdiction will exist as long as the letter is sent by the prescribed method." *Id.*, slip op. at 8.

The court observed that WMII had cited no authority in support of its contention that the statute is satisfied by actual or constructive notice, despite its specifications as to acceptable service methods, and that posting or regular mail service would do. The court remarked that even if Brenda Keller had actual notice, "[n]otice would not have been achieved by the statutorily-required means and proof of actual notice would not overcome that failure of compliance." *Ibid.*

Finally, the court observed that the Board has held that constructive notice may suffice where "the property owner has refused or avoided service." *Id.*, slip op. at 8-9. The court concluded that

Since there was no evidence that [Brenda] Keller attempted to avoid personal service or that she refused to acknowledge the receipt of a registered letter (since one was not sent to her), a finding of constructive notice is unwarranted. *Id.*, slip op. at 9.

The Board is preparing to file a motion with the court to publish this decision as a precedential opinion. The Board believes that the court's holding that the Board correctly interpreted the notice provisions of Section 39.2 of the Act would provide helpful guidance to units of local government and siting applicants alike, possibly avoiding future waste of resources in conducting hearings on improperly-noticed applications.

WMII has filed a petition for leave to appeal the Third District decision in the Illinois Supreme Court.

Other Pending Third District Kankakee Siting Appeals

A description of the other two Kankakee siting decisions pending in the Third District involve, and their status, follows:

1) The first-filed appeal challenges the Board's January 9, 2003 decision reversing the Kankakee City Council's August 19, 2002 decision to approve siting for the proposed Kankakee Regional Landfill Facility. County of Kankakee et al. v. City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C., PCB 03-31, PCB 03-33, and PCB 03-35 (January 9, 2003). The Board found that the City had jurisdiction to make its decision, and that the City's proceedings were fundamentally fair. But, the Board found that the City's decision was against the manifest weight of the evidence on one statutory criterion: that the applicant had proved that the proposed landfill was located, designed, and

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proposed to be operated to protect the public health, safety and welfare. (The decision on two other criteria was affirmed.)

Town and County filed the initial petition for review, and the County, WMII, and Byron Sandberg filed cross-petitions. Oral argument was held in this set of appeals on September 9 2004, and the parties are awaiting the court's decision. The name and docket of this appeal is Town and County et al. v. Illinois Pollution Control Board et al., No. 3-03-0025 (3rd Dist.).

2) The second-filed appeal concerns the Board's March 18, 2004 decision affirming the City of Kankakee's August 18, 2003 grant of landfill-siting approval to Town & Country Utilities, Inc. and Kankakee Regional Landfill, LLC to locate the proposed 400-acre Kankakee Regional Landfill Facility site within city limits. Byron Sandberg et al. v. The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C., PCB 04-33, PCB 04-34, and PCB 04-35 (cons.) (March 18, 2004).

The Board found the City of Kankakee had jurisdiction because Town & Country properly served notice of its intent to file an application to site a new pollution control facility, the proceedings were not fundamentally unfair, and the City of Kankakee's decision was not against the manifest weight of the evidence on various statutory criteria (need, designed to protect public health, safety, and welfare and consistency with the county's solid waste plan).

The County, WMII, and Byron Sandberg each filed petitions for review. The parties are presently briefing the issues under the briefing schedule set by the court. These appeals are pending under the name and docket numbers County of Kankakee et al. v. Illinois Pollution Control Board et al., Nos. 3-04-0271, 3-04-0285, and 3-04-0289 (cons.) (3rd Dist.).

Second District Agrees to Publish its Decision Affirming Board Ruling in Roti et al. v. LTD Commodities and Illinois Pollution Control Board et al., No. 2-04-0199 (February 9, 2005) (PCB 99-19)

In a February 9, 2005 order, the Second District Appellate Court granted the motion of the Board for publication of the court's December 21, 2004 order affirming the Board's decision in the appeal of a citizen noise pollution action Anthony & Karen Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities and Illinois Pollution Control Board, No. 2-04-0199 (December 21, 2004). 2002). The court accordingly withdrew its December 21, 2004 final unpublished 21-page order under Supreme Court Rule 23 (155 Ill.2d R. 23), and filed a 21-page opinion in its stead. The court's published opinion can serve as helpful precedent in resolving future noise cases.

The court's December 2004 ruling was summarized in detail. See *Environmental Register* No. 606 (December, 2004) at pp.2-3. The opinion replacing it will not be reported in detail here.

In brief, the Board's opinion and order first found that the trucking operation emitted noise in violation of the noise nuisance provisions of the Environmental Protection Act (Act) and Board regulations (415 ILCS 5/24 (2002) and 35 Ill. Adm. Code 900.102). After receiving input from the parties concerning the appropriate remedy, the Board then issued a final order assessing a \$15,000 civil penalty and directing abatement of the noise. Anthony and Karen Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities, PCB 99-19 (interim order February 15, 2001; final order February 15, 2004). Notably, the court's decision specifically affirmed not only the \$15,000 penalty, but also the remainder of the Board's remedy that gave appellant LTD Commodities (LTD) the choice to either shut down its nighttime operations or build a noise wall.

Rule Update

Board Adopts Proposal for Public Comment in Wastewater Pretreatment Update, USEPA Amendments (January 1, 2004 through June 30, 2004) (July 1, 2004 through December 31, 2004, February 1, 2005) R05-4/R05-15 (cons.)

On February 3, 2005, the Board adopted a proposal for public comment and consolidated two dockets in Wastewater Pretreatment Update, USEPA Amendments (January 1, 2004 through June 30, 2004) (July 1, 2004

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through December 31, 2004, February 1, 2005) (R05-4/R05-15 (cons.)). The rulemaking proposes amendments to the Illinois regulations that are “identical in substance” to wastewater pretreatment regulations adopted by the United States Environmental Protection Agency (USEPA). The USEPA rules implement Sections 307(b), (c), and (d) and 402(b)(8) and (b)(9) of the Federal Water Pollution Control Act (33 U.S.C. §§ 1317(b), (c), and (d) and 1342(b)(8) and (b)(9) (2002)).

This docket includes federal wastewater pretreatment amendments that USEPA adopted in the period January 1, 2004 through December 31, 2004, and on February 1, 2005. The rulemaking proposal was published in the February 18, 2005 issue of the *Illinois Register* at 29 Ill. Reg. 2611. The Board will accept public comments for 45 days after publication, through April 4, 2005. The Board anticipates adopting final rules based on this proposal no later than May 6, 2005.

The Board consolidated dockets R05-4 and R05-15 because the two sets of amendments are light in volume, and the subject matters are simple. Further, the Board found that separate consideration might necessitate a delay in the final adoption of the R05-15 amendments, since timely adoption of that matter would require the Board to adopt a proposal for public comment no later than April 21, 2005, which is the date when the Board presently anticipates voting to adopt the R05-4 amendments. Finally, the Board added the February 1, 2005 action to this docket because the nature of the change required expedited consideration in this pending docket.

The Board acted on three federal actions published at 69 Fed. Reg. 25324 (May 6, 2004), 69 Fed. Reg. 45944 (July 30, 2004), and 70 Fed. Reg. 5058, (February 1, 2005).

The USEPA action of May 6, 2004, corrects an error in publication of the 2003 edition of the *Code of Federal Regulations*. The Government Printing Office omitted pages 401 and 408 of that volume. The corrections restore that omitted text. Affected were the texts of 40 C.F.R. 439.0, 439.1, 439.26, 439.27, and 439.30 through 439.34. Thus, corrected, the full text of each of these rules appears in the 2004 edition of the *Code of Federal Regulations* (C.F.R.).

The Board proposes to incorporate the federal corrections. This requires little more than updating incorporations of federal rules by reference to the 2004 edition of the C.F.R. It further requires adding a formerly-omitted incorporation of a federal rule by reference.

On July 30, 2004, USEPA adopted national emission standards for hazardous air pollutants (NESHAPs) applicable to the plywood and composite wood point-source categories. While NESHAPs are air emissions standards that normally have little to do with wastewater pretreatment, USEPA included one amendment relating to wastewater discharges. That amendment was to the definition of “process wastewater,” which is a definition critical to the applicability of the wastewater rules applicable to sources in the timber products processing point source category. The NESHAPs amendments excluded various wastewaters from the definition of process wastewater to which the water pollution control regulations apply. Excluded were wastewaters from washout of thermal oxidizers and catalytic oxidizers, biofilters, wet electrostatic precipitators used upstream of thermal oxidizers or catalytic oxidizers used to comply with the NESHAPs.

The Board proposes to incorporate the federal July 30, 2004 amendments. This is done by updating the incorporation of 40 C.F.R. 429.11 by reference in Section 307.3900(b) to the 2004 edition of the C.F.R., including the July 30, 2003 amendments.

On February 1, 2005, USEPA adopted a direct final rule that corrected an error in the August 14, 2000 (65 Fed. Reg. 49666) pretreatment standards applicable to the transportation equipment cleaning point source category. USEPA used “any existing source” in 40 C.F.R. 442.16(b), when it should have used “any new source,” in its pretreatment standards applicable to new sources. The Board incorporated the August 14, 2000 amendments into the Illinois wastewater pretreatment rules in Wastewater Pretreatment Update, USEPA Amendments (July 1, 2000 through December 31, 2000), R01-25 (Aug. 9, 2001).

The Board proposes to incorporate the federal February 1, 2005 correction. This is done by updating the incorporation of 40 C.F.R. 442.16 by reference in Section 307.5201(c)(1) to the 2004 edition of the C.F.R., including the February 1, 2005 correction.

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Copies of the Board's opinion and order in R05-4/15 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Mike McCambridge at 312/814-6924; e-mail address: mccambm@ipcb.state.il.us.

Board Adopts Second Notice Opinion and Order in Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720, 721, 724, 725, 728, and 733, R05-08

On February 3, 2005, the Board adopted a second notice opinion and order in Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720, 721, 724, 725, 728, and 733), R05-08. The second notice proposal makes amendments to the Board's standards for universal waste management by designating certain mercury containing devices as universal waste. The Board has sent the rulemaking, pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2002)), to the Joint Committee on Administrative Rules (JCAR) for its review and approval. The proposed amendments will be considered at the March 8, 2005 JCAR meeting.

The Board adopted the Illinois Environmental Protection Agency's (IEPA) October 19, 2004 proposal for first notice as a non-substantive proposal, without Board comment on its merits, making only a few nonsubstantive changes to the proposal. First notice was published on November 19, 2004 at 28 Ill. Reg. 15029 through 15119.

These amendments affect the Board's rules governing the standards for universal waste management found in the Board's existing rules at 35 Ill. Adm. Code 703, 720, 721, 724, 725, 728, and 733. The amendments in this rulemaking implement Public Act 93-964, which became effective on August 20, 2004.

Public Act 93-964 required the IEPA to propose, within 60 days of its effective date, rules that formally designate as "universal waste" mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture. The IEPA proposal mirrors a United States Environmental Protection Agency proposal published in the *Federal Register* at 67 Fed. Reg. 40507 (June 12, 2002) that seeks to amend the federal universal waste regulations under the Resource Conservation and Recovery Act to include mercury-containing devices as universal waste.

The General Assembly mandated the Board to adopt the rules within 180 days after the receipt of the IEPA proposal, *i.e.* on or before April 15, 2005. The Board is currently on track to adopt a final opinion and order before the April 15, 2005 deadline.

Hearings were held on December 15, 2004, in Chicago and on January 6, 2005 in Springfield. The Board did not receive any public comments in this rulemaking.

Copies of the Board's opinion and order in R05-08 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For more information contact Marie Tipsord at (312) 814-4925 or email at tipsordm@ipcb.state.il.us.

Board Dismisses 5 Identical in Substance Rulemaking Dockets As Unnecessary: RCRA Subtitle D Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-12; RCRA Subtitle C Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-13; UST Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-14; SDWA Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-17; and UIC Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-18

Every six months the Board reserves a series of dockets for adoption of Board rules to accommodate any rules adopted by the United States Environmental Protection Agency (USEPA) to implement various programs. On February 3, 2005, the Board dismissed as unnecessary five dockets reserved to consider rules adopted by USEPA

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during the period July 1, 2004 through December 31, 2004. In each of the five program areas described below, USEPA adopted no rules during the update period.

RCRA Subtitle D (R05-12). Section 22.40(a) of the Environmental Protection Act (415 ILCS 5/22.40(a) (2002)) requires the Board to adopt regulations that are “identical in substance” to regulations of the USEPA. 415 ILCS 5/7.2 (2002). Specifically, Section 22.40(a) relates to municipal solid waste landfill (MSWLF) regulations that USEPA adopted to implement Subtitle D of the Resource Conservation and Recovery Act of 1976 (42 U.S.C §§ 6941-6949 (1998); RCRA Subtitle D). USEPA has codified the federal MSWLF rules as 40 C.F.R. 258.

RCRA Subtitle C (R05-13). Sections 7.2 and 22.4(a) of the Environmental Protection Act (415 ILCS 5/7.2 and 22.4(a) (2002)) require the Board to adopt regulations that are “identical in substance” to hazardous waste regulations adopted by the USEPA. These USEPA rules implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2000)). USEPA has codified the federal hazardous waste rules as 40 C.F.R. 260 through 266, 268, 270, 271, 273, and 279.

UST Program (R05-14). Section 22.4(d) of the Environmental Protection Act (415 ILCS 5/22.4(d) (2002)) requires the Board to adopt regulations which are “identical in substance,” as defined at Section 7.2 of the Act (415 ILCS 5/7.2 (2002)), to underground storage tank (UST) regulations promulgated by the USEPA pursuant to Section 9003 of the federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, 42 U.S.C. § 6993 (2000), to implement Subtitle I of RCRA (42 U.S.C. §§ 6991 *et seq.* (2000)), with certain limitations. USEPA has codified its UST regulations at 40 C.F.R. 281 through 283.

SDWA Program (R05-17). Section 17.5 of the Environmental Protection Act (415 ILCS 5/17.5 (1998)) requires the Board to adopt regulations that are “identical in substance,” as defined at Section 7.2 of the Act, to the National Primary Drinking Water regulations (NPDWRs) adopted by the United States Environmental Protection Agency (USEPA). These regulations implement sections 1412(b), 1414(c), 1417(a), and 1445(a) of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300g-1(b), 300g-3(c), 300g-6(a) & 300j-4(a) (1998). USEPA has codified its SDWA regulations at 40 C.F.R. 141 through 143.

UIC Program (R05-18). Section 13(c) of the Environmental Protection Act (415 ILCS 5/13(c) (2002)) requires the Board to adopt regulations that are “identical in substance” to regulations of the United States Environmental Protection Agency (USEPA). 415 ILCS 5/7.2 (2002). Specifically, Section 13(c) relates to underground injection control (UIC) regulations that USEPA adopted to implement provisions of the Safe Drinking Water Act (42 U.S.C. § 300h *et seq.* (2000)). USEPA has codified its UIC regulations at 40 C.F.R. 144 through 148.

Copies of the Board’s separate dismissal orders may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board’s Web site at www.ipcb.state.il.us.

For additional information contact Mike McCambridge at 312/814-6924; e-mail address: mccambm@ipcb.state.il.us.

Board Adopts First Notice Opinion and Order in Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed New 35 Ill. Adm. Code 734) (R04-22/R04-23 (cons.))

On February 17, 2005, the Board adopted a first notice opinion and order in Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed new 35 Ill. Adm. Code 734) (R04-22/R04-23 (cons.)). The rulemaking is based on proposals filed by the Illinois Environmental Protection Agency (IEPA) on January 13, 2004. The proposal was sent to the Secretary of State’s Index Department for publication in the March 11, 2005 issue of the *Illinois Register*.

The Board made significant changes, in response to the testimony and comments, to the proposal that was filed by the IEPA. The first notice proposal is intended to reflect the extensive and thoughtful efforts made by all of the participants in this rulemaking.

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The R04-22 proposed amendments to Part 732 would establish the corrective action measures that must be taken by an owner or operator of an underground storage tank in response to a leak, as well as procedures for seeking payment from the Underground Storage Tank Fund (UST Fund). The amendments to Part 732 also reflect changes from P.A. 92-0554, effective June 24, 2002 and 92-0735, effective July 25, 2003, which allow a Licensed Professional Geologist to certify certain information.

The proposed amendments seek to streamline the process in Part 732 for obtaining payment from the UST Fund. The amendments propose a new Subpart H that contains maximum reimbursement amounts that can be paid for different activities performed in a release response. The streamlining will be accomplished by specifying maximum amounts that will be reimbursed for remediation activities. Some of the topics covered by this proposed Subpart H include: free product or groundwater removal, well installation and abandonment, soil removal and disposal, and professional consulting services. Additionally, the proposal includes bidding as an alternative to the maximum reimbursement amounts for UST remediation specified in the proposal.

The proposal calls for the establishment of a “LUST Advisory Committee” comprised of numerous groups involved in the UST program. The Committee is required to meet quarterly to review the IEPA’s implementation of the rules.

Proposed new Part 734, which is applicable to releases reported after June 24, 2002, is largely identical to Part 732 except for changes enacted in P.A. 92-0554. Those exceptions include different corrective action requirements and increased caps on the total amount owners and operators can be paid from the UST Fund.

The first hearing in this rulemaking was held on March 15, 2004, in Chicago. The second group of hearings was held on May 25, 2004, in Bloomington and May 26, 2004, in Springfield. The third group of hearings was an additional two days held on June 21, 2004, and June 22, 2004, in Springfield. The fourth and fifth groups were single days of hearing in Springfield on July 6, 2004 and August 9, 2004. During those hearings the Board heard testimony from over 15 witnesses. In addition, the Board received nine public comments in this proceeding.

Copies of the Board’s opinion and order in R04-22/23 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board’s Web site at www.ipcb.state.il.us.

For additional information contact Marie Tipsord at 312/ 814-4925; email address tipsordm@ipcb.state.il.us.

Board Actions

February 3, 2005

Via Videoconference

Springfield and Chicago, Illinois

Rulemakings

R05-4	<u>In the Matter of: Wastewater Pretreatment Update, USEPA Amendments</u>	4-0
R05-15	<u>(January 1, 2004 through June 30, 2004); In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (July 1, 2004 through December 31, 2004 and February 1, 2005) – The Board on its own motion consolidated these “identical-in-substance” rulemaking dockets and adopted a proposal for public comment to amend the Board’s wastewater pretreatment regulations.</u>	R, Water
R05-8	<u>In the Matter of: Mercury Wastes Under PA 93-0964: Amendments to Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720,</u>	4-0 R, Land

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721, 724, 725, 728, and 733 – The Board adopted a second notice opinion and order in this rulemaking to amend the Board's land pollution control regulations.

R05-12	<u>In the Matter of: RCRA Subtitle D Update, USEPA Regulations (July 1, 2004 through December 31, 2004)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its municipal solid waste landfill regulations during the update period of July 1, 2004 through December 31, 2004.	4-0 R, Land
R05-13	<u>In the Matter of: RCRA Subtitle C Update, USEPA Regulations (July 1, 2004 through December 31, 2004)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its hazardous waste regulations during the update period of July 1, 2004 through December 31, 2004.	4-0 R, Land
R05-14	<u>In the Matter of: UST Update, USEPA Regulations (July 1, 2004 through December 31, 2004)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its exemptions from the definition of underground storage tank during the update period of July 1, 2004 through December 31, 2004.	4-0 R, Land
R05-17	<u>In the Matter of: SDWA Update, USEPA Amendments (July 1, 2004 through December 31, 2004)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its public water supply regulations during the update period of July 1, 2004 through December 31, 2004.	4-0 R, PWS
R05-18	<u>In the Matter of: UIC Update, USEPA Regulations (July 1, 2004 through December 31, 2004)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its underground injection control regulations during the update period of July 1, 2004 through December 31, 2004.	4-0 R, Land

Administrative Citations

AC 04-22	<u>County of Vermilion, Illinois v. Village of Tilton</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the County of Vermilion and the Board in the amount of \$330.50 and a civil penalty of \$1,500. This order follows the Board's interim order of December 16, 2004, which found that this respondent had violated Section 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(3)).	4-0
AC 05-32	<u>IEPA v. James A. Haas, Jr.</u> – The Board granted parties' joint motion to vacate the December 16, 2004 Board Order. The Board accepted the parties' settlement agreement and granted the motion for voluntary withdrawal of the administrative citation.	4-0
AC 05-44	<u>IEPA v. Donald Eichen</u> – The Board accepted for hearing this petition for review of an administrative citation against this Macoupin County respondent.	4-0

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Decisions

PCB 97-2	<u>People of the State of Illinois v. Jersey Sanitation Corporation</u> –The Board found that the respondent violated various sections of the Environmental Protection Act and Board regulations over a 13 year period. The Board ordered the respondent to pay a total civil penalty of \$65,000 and \$24,100 to the Office of the Attorney General. The Board also denied complainant’s motion for sanctions and upheld the hearing officer’s rulings at hearing.	4-0 L&W-E
PCB 01-28	<u>People of the State of Illinois v. Plastic Decorators, Inc.</u> – In this air enforcement action concerning a Kane 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$75,000, and to cease and desist from further violations.	4-0 A-E
PCB 04-79	<u>Bonita Saxbury and Richard Saxbury v. Archer Daniels Midland</u> – The Board found that respondent did not violate Section 24 of the Environmental Protection Act (415 ILCS 24 (2002) and 35 Ill. Adm. Code 900.102 of the Board’s regulations.	4-0 Citizens N-E

Motions and Other Matters

PCB 00-141	<u>E.G. Vogt Oil Company, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Madison County facility.	4-0 UST Appeal
PCB 04-50	<u>People of the State of Illinois v. MacMurray College</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Morgan County facility, the Board ordered publication of the required newspaper notice.	4-0 A-E
PCB 04-94	<u>People of the State of Illinois v. Hauck Homes, Inc. d/b/a Rock River Estates Mobile Home Park</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 Lee County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 05-8	<u>People of the State of Illinois v. Village of Capron</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 Boone County facility, the Board ordered publication of the required newspaper notice.	4-0 PWS-E
PCB 05-49	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – The Board denied respondent’s motion to dismiss and accepted this citizen enforcement action involving a Champaign County facility for hearing.	4-0 Citizens A&L-E
PCB 05-55 PCB 05-58 PCB 05-59 (Cons.)	<u>Village of Lake Barrington, Cuba Township, Prairie Rivers Network, Sierra Club, Beth Wentzel, and Cynthia Skrukrud v. IEPA and Village of Wauconda; Slocum Lake Drainage District of Lake County, Illinois v. IEPA and Village of Wauconda, Illinois; Al Phillips et al. v. IEPA and Village of Wauconda, Illinois</u> – The Board declined to accept the stipulation and proposal for settlement and dismissal of PCB 05-55. The consolidated cases must proceed to hearing on	4-0 P-A, NPDES

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February 10, 2005 as scheduled.

PCB 05-66	<u>People of the State of Illinois v. Petco Petroleum Corporation</u> – The Board denied respondent's motion to dismiss this enforcement action involving a Fayette County facility.	4-0 Citizens W- E
PCB 05-73	<u>City of Sullivan v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Moultrie County facility.	4-0 UST Appeal
PCB 05-76	<u>Kramer's Service Station v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Vermilion County facility.	4-0 UST Appeal
PCB 05-84	<u>Gateway FS, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Randolph County facility.	4-0 UST Appeal
PCB 05-127	<u>Richard Karlock v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Vermilion County facility.	4-0 UST Appeal
PCB 05-128	<u>A&R, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	4-0 UST Appeal
PCB 05-129	<u>Ken Maschoff-Bath (Property Identification Number 22-16-200-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Ken Maschoff located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-130	<u>Saluki Farms, L.L.C. (Property Identification Number 06-08-08-300-004) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Saluki Farms, L.L.C. located in Washington County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-131	<u>Mach III Farms, L.L.C. (Property Identification Number 23-03-200-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Mach III Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-132	<u>Laning Properties, L.L.C. (Property Identification Number 01-004-008-00) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Laning Properties, L.L.C. located in Brown County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-133	<u>Spoon River FS, Inc. d/b/a Riverland FS, Inc. (Maquon) (Property Identification Number 1903126001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Spoon River FS, Inc. d/b/a Riverland FS, Inc. located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C

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PCB 05-134	<u>Lewis Properties, L.L.C. (Property Identification Number 03-08-200-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Lewis Properties, L.L.C. located in Clay County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-135	<u>Spoon River FS, Inc. d/b/a Riverland FS, Inc. (Wataga) (Property Identification Number 0616205001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Spoon River FS, Inc. d/b/a Riverland FS, Inc. located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-136	<u>Mach III Farms, L.L.C. (Property Identification Number 16-21-400-002) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mach III Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-137	<u>Mach III Farms, L.L.C. (Property Identification Number 22-16-200-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mach III Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-138	<u>BP Products North America, Inc. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a Resource Conservation and Recovery Act appeal on behalf of this Madison County facility.	4-0 UST Appeal 90-Day Ext.
PCB 05-139	<u>People of the State of Illinois v. Bath, Inc.</u> – The Board accepted for hearing this land enforcement action involving a site located in Mason County.	4-0 L-E
PCB 05-140	<u>McLean Properties, L.L.C. (Property Identification Number 34-05-200-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-141	<u>McLean Properties, L.L.C. (Property Identification Number 07-16-01-00-300-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in Clark County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C

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PCB 05-142	<u>McLean Properties, L.L.C. (Property Identification Number 09-003-002-60) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in Logan County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-143	<u>Bay Creek 1 Investments, L.L.C. (Property Identification Numbers 46-064-02 and 46-064-03) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 1 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-144	<u>Bay Creek 3 Investments, L.L.C. (Property Identification Number 73-002-09A) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 3 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-145	<u>Bay Creek 2 Investments, L.L.C. (Property Identification Number 73-001-04A) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 2 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C
PCB 05-146	<u>McLean Properties, L.L.C. (Property Identification Number 34-11-100-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C

**February 17, 2005
Chicago, Illinois**

Rulemakings

R04-22 R04-23 (Cons.)	<u>In the Matter of: Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed New 35 Ill. Adm. Code 734)</u> – Following seven public hearings on the Illinois Environmental Protection Agency proposal, the Board adopted a first notice proposal to amend the Board’s land pollution control regulations.	4-0 Johnson concurring R, UST
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Administrative Citations

AC 04-31	<u>IEPA v. Equipping the Saints Ministry, International, Inc.</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Macoupin County facility, the Board found that respondent had	4-0
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violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)) and ordered respondent to pay a civil penalty of \$1,500. The Board also granted the parties' joint motion to dismiss respondent's petition for review and the alleged violations of 415 ILCS 5/21(p) (2), (7) (2002).

AC 05-19	<u>IEPA v. David and Shelby Hill and N.E. Finch Company</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Fulton County facility, the Board found that respondents had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)) and ordered respondents to pay a civil penalty of \$1,500. The Board also granted the parties' joint motion to dismiss respondents' petition for review and the alleged violations of 415 ILCS 5/21(p) (3), (7) (2002).	4-0
AC 05-40	<u>IEPA v. Northern Illinois Service Company</u> – The Board accepted for hearing this amended petition for review of an administrative citation against this Winnebago County respondent.	4-0
AC 05-45	<u>IEPA v. Double S. Masonry, Inc., Curtis R. Seei and Ronald Seei</u> – The Board on its own motion dismissed the administrative citation as to Ronald Seei for lack of timely service. The Board found that the remaining Henry County respondents violated Sections 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2002)), and ordered respondents to pay a civil penalty of \$1,500.	4-0
AC 05-47	<u>IEPA v. Stacy Hess</u> – The Board directed respondent to file an amended petition for review specifying the grounds for appeal within 30 days, or the Board will dismiss this matter.	4-0

Motions and Other Matters

PCB 99-187	<u>Gina Pattermann v. Boughton Trucking and Materials, Inc.</u> – The Board denied complainant's motions for leave to file a reply and for expedited review, but granted its motion for voluntary dismissal without prejudice. The Board denied respondent's motion requesting litigation expenses.	4-0 A&N-E
PCB 03-101	<u>People of the State of Illinois v. Werner, Co.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	4-0 A-E
PCB 04-169	<u>Craig's Service Station v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a McLean County facility.	4-0 UST Appeal
PCB 04-207 PCB 97-193	<u>People of the State of Illinois v. Edward Pruiam an individual, and Robert Pruiam, an individual; People v. Community Landfill Company, Inc.</u> – The Board granted respondent's motion to consolidate PCB 04-207 with PCB 97-193, but took no action on the other pending motion.	4-0 L-E
PCB 05-61	<u>Harold Hart Service v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Madison County facility.	4-0 UST Appeal
PCB 05-82	<u>Bradley Mobil v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Kane County facility.	4-0 UST Appeal

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PCB 05-90	<u>Harper Oil Company v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Jefferson County facility.	4-0 UST Appeal
PCB 05-94	<u>APS Properties v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Macon County facility.	4-0 UST Appeal
PCB 05-101	<u>Mac's Convenience Stores L.L.C. v. IEPA</u> – The Board accepted for hearing this amended underground storage tank appeal involving a McLean County facility. The Board granted David L. Hatchett's motion for leave to appear <i>pro hac vice</i> on behalf of petitioner.	4-0 UST Appeal
PCB 05-147	<u>Vision Properties Blue Island, L.L.C. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a Resource Conservation and Recovery Act appeal on behalf of this Cook County facility.	4-0 P-A, Land 90-Day Ext.
PCB 05-148	<u>People of the State of Illinois v. Concrete Specialties Company, an Illinois corporation</u> – The Board accepted for hearing this air enforcement action involving a site located in Cook County.	4-0 A-E
PCB 05-149	<u>People of the State of Illinois v. Truserv Corporation d/b/a True Value Manufacturing Company</u> – The Board accepted for hearing this air enforcement action involving a site located in Cook County.	4-0 A-E
PCB 05-150	<u>Kent Hildebrand (Property Identification Number 05-32-300-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Kent Hildebrand located in Bureau County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C Water
PCB 05-151	<u>John and Ann Beckman (Property Identification Number 13-09-025-015) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of John and Ann Beckman located in Effingham County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C Land
PCB 05-152	<u>Robert Furtney (Property Identification Number 12-14-03-300-004) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Robert Furtney located in Champaign County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C Water
PCB 05-153	<u>Harmet Farms (Property Identification Number 11-36-400-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Harmet Farms located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	4-0 T-C A&W
PCB 05-154	<u>McLean County Asphalt v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a McLean County facility.	4-0 UST Appeal

New Cases

February 3, 2005 Board Meeting

05-130 Saluki Farms, L.L.C. (Property Identification Number 06-08-08-300-004) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Saluki Farms, L.L.C. located in Washington County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-131 Mach III Farms, L.L.C. (Property Identification Number 23-03-200-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mach II Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-132 Laning Properties, L.L.C. (Property Identification Number 01-004-008-00) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Laning Properties, L.L.C. located in Brown County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-133 Spoon River FS, Inc. d/b/a Riverland FS, Inc. (Maquon) (Property Identification Number 1903126001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Spoon River FS, Inc. d/b/a Riverland FS, Inc. located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-134 Lewis Properties, L.L.C. (Property Identification Number 03-08-200-005) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Lewis Properties, L.L.C. located in Clay County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-135 Spoon River FS, Inc. d/b/a Riverland FS, Inc. (Wataga) (Property Identification Number 0616205001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Spoon River FS, Inc. d/b/a Riverland FS, Inc. located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-136 Mach III Farms, L.L.C. (Property Identification Number 16-21-400-002) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mach III Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-137 Mach III Farms, L.L.C. (Property Identification Number 22-16-200-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mach III Farms, L.L.C. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-138 BP Products North America, Inc. v. IEPA – The Board granted this request for a 90-day extension of time to file a Resource Conservation and Recovery Act appeal on behalf of this Madison County facility.

05-139 People of the State of Illinois v. Bath, Inc. – The Board accepted for hearing this land enforcement action involving a site located in Mason County.

05-140 McLean Properties, L.L.C. (Property Identification Number 34-05-200-005) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

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05-141 McLean Properties, L.L.C. (Property Identification Number 07-16-01-00-300-005) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in Clark County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-142 McLean Properties, L.L.C. (Property Identification Number 09-003-002-60) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in Logan County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-143 Bay Creek 1 Investments, L.L.C. (Property Identification Numbers 46-064-02 and 46-064-03) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 1 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-144 Bay Creek 3 Investments, L.L.C. (Property Identification Number 73-002-09A) v. IEPA - Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 3 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-145 Bay Creek 2 Investments, L.L.C. (Property Identification Number 73-001-04A) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bay Creek 2 Investments, L.L.C. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-146 McLean Properties, L.L.C. (Property Identification Number 34-11-100-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

AC 05-047 IEPA v. Stacy Hess – The Board accepted an administrative citation against this Tazewell County respondent.

AC 05-048 County of Jackson v. Southern Illinois Regional Landfill, Inc., Doug Ticer, and George Browning – The Board accepted an administrative citation against these Jackson County respondents.

AC 05-049 IEPA v. Landers’ Children Family, L.L.C. and Ray Landers – The Board accepted an administrative citation against these Sangamon County respondents.

AC 05-050 IEPA v. Knox County Landfill Committee and Greg Ingle –The Board accepted an administrative citation against these Knox County respondents.

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05-147 Vision Properties Blue Island, L.L.C. v. IEPA – **The Board granted this request for a 90-day extension of time to file a Resource Conservation and Recovery Act appeal on behalf of this Cook County facility.**

05-148 People of the State of Illinois v. Concrete Specialties Company, an Illinois corporation – **The Board accepted for hearing this air enforcement action involving a site located in Cook County.**

05-149 People of the State of Illinois v. Truserv Corporation d/b/a True Value Manufacturing Company – The Board accepted for hearing this air enforcement action involving a site located in Cook County.

05-150 Kent Hildebrand (Property Identification Number 05-32-300-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Kent Hildebrand located in Bureau County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-151 John and Ann Beckman (Property Identification Number 13-09-025-015) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities

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of John and Ann Beckman located in Effingham County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-152 Robert Furtney (Property Identification Number 12-14-03-300-004) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Robert Furtney located in Champaign County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-153 Harmet Farms (Property Identification Number 11-36-400-005) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Harmet Farms located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-154 McLean County Asphalt v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a McLean County facility.

AC 05-051 County of Sangamon v. Patrick O'Keefe – The Board accepted an administrative citation against this Sangamon County respondent.

AC 05-052 IEPA v. Robert Daniel Spears – The Board accepted an administrative citation against this Cass County respondent.

AC 05-053 IEPA v. Judy Cornelison – The Board accepted an administrative citation against this Peoria County respondent.

AC 05-054 IEPA v. Ray Logsdon Estate, Logsdon Sand and Gravel, and M.K. O'Hara Construction, Inc. – The Board accepted an administrative citation against these Cass County respondents.

AC 05-055 IEPA v. Harold Bruley – The Board accepted an administrative citation against this Macoupin County respondent.

AC 05-056 IEPA v. Christopher A. and Jenny L. Good – The Board accepted an administrative citation against these Douglas County respondents.

AS 05-004 In the Matter of: Petition of SCA Tissue North America, L.L.C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(C) – Pending receipt of the certificate of publication, the Board held this Cook County facility's petition for an adjusted standard from the Board's organic material emission standards and limitations for the Chicago area.

Calendar

3/1/05 10:00 AM	R05-9	In the Matter of: Setback Zone for City of Marquette Heights Community Water Supply, New 35 Ill. Adm. Code 618	Pekin City Hall Council Chambers—2nd Floor 111 South Capitol Street Pekin
3/3/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield
3/8/05 9:00 AM	PCB 05-109	Paul Johnson, Inc. v. IEPA and City of Waterman, Illinois	City Hall Annex Council Chambers 128 E. Railroad Sandwich
3/9/05 9:00 AM	PCB 05-109	Paul Johnson, Inc. v. IEPA and City of Waterman, Illinois	City Hall Annex Council Chambers 128 E. Railroad Sandwich

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3/17/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Hearing Room 9-040 100 W. Randolph Street Chicago
4/5/05 10:00 AM	R05-9	In the Matter of: Setback Zone for City of Marquette Heights Community Water Supply, New 35 Ill. Adm. Code 618	James R. Thompson Center Room 2-025 100 W. Randolph Street Chicago
4/6/05 10:30 AM	PCB 03-54	Freedom Oil Company v. IEPA (Consolidated: PCB 03-54, 56, 105, 179, and 04-02)	Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield
4/6/05 10:30 AM	PCB 03-56	Freedom Oil Company v. IEPA (Consolidated: PCB 03-54, 56, 105, 179, and 04-02)	Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield
4/6/05 10:30 AM	PCB 03-105	Freedom Oil Company v. IEPA (Consolidated: PCB 03-54, 56, 105, 179, and 04-02)	Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield
4/6/05 10:30 AM	PCB 03-179	Freedom Oil Company v. IEPA (Consolidated: PCB 03-54, 56, 105, 179, and 04-02)	Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield
4/6/05 10:30 AM	PCB 04-2	Freedom Oil Company v. IEPA (Consolidated: PCB 03-54, 56, 105, 179, and 04-02)	Illinois Pollution Control Board Hearing Room (North Entrance) 1021 North Grand Avenue East Springfield
4/7/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
4/21/05 11:00 AM	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Hearing Room 9-040 100 W. Randolph Street Chicago

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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, 2004.

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>
Alhambra STP	Village of Alhambra	Madison	0
Bonnie Brae Forest Manor SD STP	Bonnie Brae Forest Manor SD	Will	0
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
East Alton	City of East Alton	Madison	0
Farmington	City of Farmington	Fulton	0
Hurst & Blairville Collection System	City of Hurst	Williamson	0
Lockport Heights SD STP	City of Lockport	Will	0
Maple Lawn Homes STP	Maple Lawn Homes	Woodford	0
Poplar Grove South STP	Village of Poplar Grove	Boone	0
Poplar Grove North STP	Village of Poplar Grove	Boone	0
Port Byron STP	Village of Port Byron	Rock Island	0
Rosewood Heights S.D.- Ninth Street LS	Rosewood Heights S.D.	Madison	0
Saint Elmo	City of Saint Elmo	Fayette	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

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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 2004.

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	1,600	
Antioch STP	Village of Antioch	Lake	612	0
Beardstown SD	City of Beardstown	Cass	1,731	
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
Dakota	Village of Dakota	Stephenson	90	0
Downers Grove S.D.	Downers Grove S.D.	DuPage	3,057	95
East Dundee STP	Village of E. Dundee	Kane	550	6
Elkville	Village of Elkville	Jackson	6	0
Ferson Creek Utilities Co.	Utilities, Inc.	Will	70	0
LCPWD-Diamond- Sylvan STP	County of Lake Public Works Department	Lake	0	0
Lake Barrington Home Owners Assn. STP	Lake Barrington Home Owners Assn.	Lake	80	0
Lockport	City of Lockport	Will County	1,223	2,224
Moline (North Slope)	City of Moline	Rock Island	1,151	0
Morris STP	City of Morris	Grundy	0	333
New Lenox STP 1 **	Village of New Lenox	Will	1,369	234
Paris STP	City of Paris	Edgar	0	
Rock Island (Main)	City of Rock Island	Rock Island	4,458	112
Streator	City of Streator	LaSalle/ Livingston	765	
Wauconda – Remaining Collection System & Lakeview Villa LS	Village of Wauconda	Lake	***	
Wauconda WWTP	Village of Wauconda	Lake		280

Deletions from previous quarterly report: None

Additions from previous quarterly report: Village of Algonquin

***Contact IEPA – Permit Section

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Boone Creek Class III Special Resource Groundwater Final Listing Notice

The Illinois Environmental Protection Agency (IEPA) requests a final listing of Boone Creek Fen, Spring Hollow, Lee Miglin Savanna, and Amberin Ash Ridge, which are dedicated nature preserves (DNPs), and the area that contributes groundwater to the DNPs, as Class III: Special Resource Groundwater. These four privately owned nature areas are located in central McHenry County, Illinois, approximately three miles east of the City of Woodstock. The DNPs are comprised of 88.15-acres, located in the McHenry Quadrangle, Township 4 South, Range 7 East of the Third Principal Meridian, Sections 1, 2, 11, and 12. The DNPs and the groundwater contribution area is an irregularly shaped 5.04 square mile (3,227.4 acre) tract of land. The recharge area is located predominantly to the south and west of the DNPs.

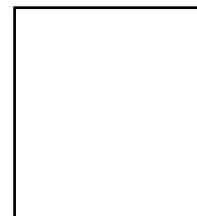
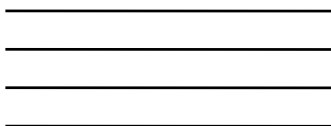
Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water 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 IEPA. The IEPA 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 IEPA is required to publish a final listing in the *Environmental Register*. The proposed listing appeared in the Illinois Pollution Control's November 2004 *Environmental Register*. The IEPA did not receive any public comments during the 45-day comment period.

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

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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Illinois Pollution Control Board
Environmental Register Coordinator
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Environmental Register

November 2004 - Number 605

The Environmental Register is a Publication of the Illinois Pollution Control Board

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Letter from the Chairman

As in recent months, the Board continues to have a very full agenda of rulemaking, including three proposals filed within the last few weeks.

R 05-9: On November 5, 2004, the Board received a rulemaking proposal from the Illinois Environmental Protection Agency (IEPA), which seeks to establish 1,000-foot setback zone protection for the community water supply (CWS) wells of the City of Marquette Heights in Tazewell County. The proposal is the first of its kind under Section 14.3(d) of the Environmental Protection Act (Act), which allows establishment of “maximum setback zones” to prevent contamination of particularly vulnerable groundwater sources used by CWS. At its December 2, 2004 meeting, the Board accepted this proposal and directed the assigned hearing officer to proceed expeditiously to hearing.



R 05-10: This rulemaking proposal, filed on November 8, 2004, and docketed as R05-10, would set standards for Escherichia coli (E.coli) bacteria in both Lake Michigan and the Mississippi River. IEPA states that the proposed changes in the Lake Michigan standards are necessary to comply with the provisions of the federal Clean Water Act. In addition, the United States Environmental Protection Agency (USEPA) has sought to have all states on the upper Mississippi River adopt E.coli standards, and USEPA has indicated that it will adopt standards for states that do not act. At the time this letter was drafted, the Board had not yet acted on this proposal.

R 05-11: On November 19, 2004, IEPA filed a proposal to amend the Board's rules relating to the Emissions Reduction Market System (ERMS). The Board originally adopted ERMS rules in 1997 and in 2001 received approval from USEPA as part of the State Implementation Plan (SIP) for ozone. ERMS is a “cap and trade” program designed to reduce volatile organic material (VOM) emissions in the Chicago area. IEPA states that revisions are necessary because USEPA is revoking the 1-hour ozone national ambient air quality standard (NAAQS) effective on June 15, 2005. That revocation of the 1-hour NAAQS, according to IEPA, will affect the applicability of the Clean Air Act Permit Program (CAAPP). IEPA further asserts that this change will result in the loss of approximately 330 tons of VOM emission reductions for each seasonal allotment period. At its December 2, 2004 meeting, the Board accepted this proposal for hearing and granted IEPA's motion for expedited review.

The Board's Clerk's Office On-Line (COOL) provides 24-hour electronic access to case and docket information through the Board's Web site at www.ipcb.state.il.us. COOL is also designed to allow electronic filing of documents with the Clerk. The Board and its staff have developed a voluntary pilot project to introduce the option of electronic filing, beginning with specific categories of cases. I'm pleased that the Board is working to keep pace with information technology improvements, and I encourage you to call our Clerk's office at 312-814-3629 for more information about our pilot project.

Best wishes to all of you for a very happy holiday season.

Sincerely,

A handwritten signature in black ink that reads "J. Philip Novak". The signature is written in a cursive, slightly slanted style.

J. Philip Novak
Chairman

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Federal Update

United States Environmental Protection Agency Adopts Direct Final Rule, and Corresponding Proposed Rule, Approving the Illinois Site-Specific Sulfur Dioxide Plan Revision for CILCO Edwards Station

On November 12, 2004 (69 Fed. Reg. 65378), the United States Environmental Protection Agency (USEPA) adopted a direct final rule, as well as a corresponding proposed rule, to approve a site-specific change to the Illinois State Implementation Plan (SIP). This revision request is identical to an earlier temporary SIP revision, which USEPA approved on April 13, 2000 (65 FR 19838). The USEPA action is based on a July 29, 2003, site-specific sulfur dioxide (SO₂) SIP revision submission from the Illinois Environmental Protection Agency (IEPA) for the Central Illinois Light Company's Edwards Generating Station in Peoria County, Illinois (CILCO Edwards).

The Board granted CILCO's petition for a site specific rule change for the Edwards generating station on June 5, 2003 in Petition of Central Illinois Light Company (E. D. Edwards Generating Station) for a Site Specific Air Regulation: 35 Ill. Adm. Code 214.561 (R02-21). The adopted standards require that: average sulfur dioxide emissions from Boiler Nos. 1, 2, and 3 at the generating station, as a group may not exceed 4.71 pounds per million British thermal units (lb/mmBtu) of actual heat input; the average sulfur dioxide emissions from any one boiler may not exceed 6.6 lb/mmBtu of actual heat input; and sulfur dioxide emissions for all three boilers, as a group, may not exceed 34,613 pounds per hour, on a 24-hour average basis.

The direct final rule is effective on January 11, 2005 unless USEPA receives adverse written comments by December 13, 2004. If adverse comment is received, USEPA will publish a timely withdrawal of the rule in the *Federal Register* and inform the public that the rule will not take effect.

Written comments may be sent to: J. Elmer Bortzer, Chief, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

For further information contact Mary Portanova, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch, EPA Region 5, Chicago, Illinois 60604, (312)-353-5954, email at: portanova.mary@epa.gov.

United States Environmental Protection Agency Adopts Final Water Quality Standards for Bacteria levels in Coastal and Great Lakes Recreation Waters Under the Clean Water Act

On November 16, 2004 (69 Fed. Reg. 67217), the United States Environmental Protection Agency (USEPA) adopted water quality standards for bacteria for coastal recreation waters designated for swimming, bathing, surfing or similar water contact activities. Effective December 16, 2004, the new rules cover states and territories, including Illinois, that do not have in place USEPA-approved water quality standards for bacteria that comply with

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the requirements of section 303(i)(1)(A) of the Clean Water Act and are as protective of human health as USEPA's 1986 recommended bacteria criteria.

For freshwaters, USEPA used the pathogen indicators enterococci and E. coli. For fresh coastal recreation waters and for the Great Lakes Basin, the federal standard is 126 E. coli and 33 enterococci per 100 ml geometric mean. The single sample allowable maxima for E. coli and enterococci (derived by statistical calculations) are graded according to the intensity of recreational use of the waters: designated bathing beach (235 and 61, 75 % confidence level), moderate use coastal recreation waters (298 and 78, 82% confidence level), light use coastal recreation waters (409 and 107, 90% confidence level), and infrequent use coastal recreation waters (575 and 151, 95% confidence level).

For marine waters, USEPA used the pathogen indicator enterococci only. For marine waters, the federal standard is 35 enterococci per 100 ml geometric mean. The single sample allowable maxima for enterococci (derived by statistical calculations) are graded according to the intensity of recreational use of the waters: designated bathing beach (104, 75 % confidence level), moderate use coastal recreation waters (158, 82% confidence level), light use coastal recreation waters (276, 90% confidence level), and infrequent use coastal recreation waters (501, 95% confidence level).

USEPA did not specify in the final rule how the averaging period for the geometric must be applied, however it recommended that the averaging period be applied as a “rolling” or “running” average. USEPA stated that it expects that most States will in fact apply the averaging period as a rolling average; however, USEPA also recognized that it would be technically appropriate to apply the averaging period on a set basis such as monthly or recreation season. USEPA therefore concluded that it is appropriate to allow the states to exercise discretion in deciding how to apply the averaging period for the geometric mean.

USEPA promulgated the single sample maximum values that it proposed without change, but clarified its expectations with regard to how these values could be used in the context of beach notification and closure decisions, and in the context of the implementation of other Clean Water Act programs. USEPA stated that it expects that the single sample maximum values would be used for making beach notification and closure decisions. Other than in the beach notification and closure decision context, the geometric mean is the more relevant value for ensuring that appropriate actions are taken to protect and improve water quality because it is a more reliable measure, being less subject to random variation, and more directly linked to the underlying studies on which the 1986 bacteria criteria were based.

Nevertheless, USEPA believes the single sample maximum can play a role in identifying potential pollution episodes, especially in waters that are prone to short-term spikes in bacteria concentrations, e.g., waters that may be affected by a combined sewer overflow outfall. For beach monitoring and beach notification and closure decisions, beach managers frequently need to make beach decisions based on one or very few data points. Thus, having a trigger level for a single sample value enables beach managers to make an immediate decision for the protection of public health at beaches.

This final rule is effective December 16, 2004.

For information concerning this rulemaking, contact Lars Wilcut, Standards and Health Protection Division, Office of Science and Technology (4305 T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202)-566-0447; fax number: (202)-566-0409; e-mail address: wilcut.lars@epa.gov.

The Board is currently considering an Illinois Environmental Protection Agency (IEPA) proposal to add a bacterial water quality standard to the Board rules to supplement the existing fecal coliform standard. Bacteria (E-coli) Water Quality Standard for Lake Michigan and Mississippi River, Proposed Amendments to 35 Ill. Adm. Code 302 and 303 (R05-10) is a proposal to amend the Board's water quality standards to include criteria for bacteria. The Lake Michigan portion of the rulemaking is intended to fulfill the federal requirement for Illinois to adopt bacteria standards for the Lake Michigan Basin. (There is no current federal requirement applicable to the Mississippi River.)

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The IEPA proposal would set a new bacteria water quality standard during the months of May through October for the Lake Michigan Basin and designated bathing beaches. The proposed standard for "open waters" of the Lake and "designated bathing beach waters is the geometric mean of 126 cells per 100 mL in 5 samples taken over no more than 30 days) or 235 cells per 100 mL in a single sample. In other waters of the Lake Michigan Basin, the standard is the geometric mean of 126 cells per 100 mL (5 samples over not more than 30 days) or 298 cells per 100 mL (single sample). The Board expects to hold hearings on this proposal early in 2005.

United States Environmental Protection Agency Adopts Revision to the Definition of Volatile Organic Compounds Under the Clean Air Act

In two separate *Federal Register* notices, the United States Environmental Protection Agency (USEPA) exempted five additional compounds from the definition of volatile organic compound (VOC). The notices appeared on November 29, 2004 at 69 Fed. Reg. 69290 and 69 Fed. Reg. 69298. This action revises USEPA's definition of volatile organic compounds (VOC) for purposes of State implementation plans (SIPs) to attain the national ambient air quality standards (NAAQS) for ozone under Title I of the Clean Air Act (CAA).

The first USEPA action was the result of a petition filed by various companies: 3-M Company, Great Lakes Chemical Company, and Foam Supplies, Inc. That notice (at 69 Fed. Reg. 69290) excluded 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (HFE-7000); 3-ethoxy-1,1,2,3,4,4,5,5,6,6,6-docecafluoro-2-(trifluouromethyl)hexane (HFE-7500, HFE-s702, T-7145, or L-15381); 1,1,1,2,2,3,3-heptafluoropropane (HFC-227ea); and methyl formate. HFE-7000 is used as a refrigerant and an aerosol propellant. HFE-7500 is used as a refrigerant. HFC-227ea is used as a fire suppressant and aerosol propellant. Methyl formate is used as a blowing agent in the manufacture of plastic foams.

The second action resulted from a petition filed by Lyondell Chemical Company. That notice (at 69 Fed. Reg. 69298) excludes tert-butyl acetate (TBAC). TBAC is used as a gasoline additive and solvent. The exclusion of TBAC is unique in that although USEPA has exempted the compound from the definition of VOM for the purposes of emissions controls, USEPA will continue to consider TBAC to be VOC for the purposes of recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements. USEPA explained that although the compound may be negligibly reactive, its use in large volumes may still contribute to tropospheric ozone formation.

Both amendments are effective on December 29, 2004.

For further information contact David Sanders, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division (C539-02), Research Triangle Park, NC 27711, phone (919)-541-3356, or William Johnson, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division (C539-02), Environmental Protection Agency, Research Triangle Park, NC 27711; (919)-541-5245; e-mail: johnson.williaml@epa.gov

The Board will act to adopt corresponding identical-in-substance amendments to the Illinois definition of VOM within a year of this federal action. Docket R05-16 has been reserved to accommodate the needed amendments.

Appellate Update

First District Agrees to Publish its Decision Dismissing Appeal in *Vogue Tyre & Rubber Co. v. Office of the State Fire Marshal of the State of Illinois*, No. 1-03-0521 (November 2, 2004 nunc pro tunc September 28, 2004)(PCB 01-167)

In a November 2, 2004 *nunc pro tunc* opinion and order, the First District Appellate Court granted the motion of the Board for publication of the court's September 28, 2004 dismissal order in the appeal *Vogue Tyre Rubber & Co. v. Office of the State Fire Marshal* No. 1-03-0521 (November 2, 2004). In the case before the Board, the Board affirmed a decision by the Office of the State Fire Marshal (OSFM) finding Vogue Tyre ineligible to have cleanup costs for specific leaking underground storage tanks (USTs) reimbursed from the UST Fund under the

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Environmental Protection Act (415 ILCS 5/57.9(a)(4) (2002)). Vogue Tyre Rubber & Co. v. Office of the State Fire Marshal, PCB 95-78 (December 5, 2002).

Because the court's 14-page September order was originally issued as an unpublished order under Supreme Court Rule 23 (155 Ill.2d R. 23), it was summarized only in brief in these pages. See *Environmental Register* No. 603 (September, 2004) at pp.3. A more extensive summary is found below.

The Board's Decision

In 1986, Vogue Tyre had registered with the OSFM four USTs at a service station site in Skokie, Cook County. Of the four, only Tanks 1 and 2 were at issue. By February 1993 administrative order, the OSFM "deregistered" Tanks 1 and 2, apparently because they had been removed before September 27, 1987. Vogue Tyre did not appeal the OSFM's deregistration order. In December 1994, Vogue Tyre reported a UST release and applied with the OSFM for a determination on eligibility to have Vogue Tyre's cleanup costs reimbursed from the UST Fund. In February 1995, the OSFM denied Vogue Tyre access to the UST Fund because Tanks 1 and 2 were not registered. In March 1995, Vogue Tyre petitioned the Board to review the OSFM's denial. The Board proceeding was stayed pending resolution of related insurance claims. In September 2002, the OSFM filed a motion for summary judgment with the Board.

In December 2002, the Board granted the OSFM's motion for summary judgment. The Board found no genuine issue of material fact that the USTs at issue were not registered when Vogue Tyre applied for UST Fund access. Because tank registration is a prerequisite to UST Fund eligibility under the Environmental Protection Act (415 ILCS 5/57.9(a)(4) (2002)), the Board held that the OSFM's 1995 decision to deny UST Fund eligibility was entitled to affirmation as a matter of law. Further, Vogue Tyre's arguments that the OSFM erred in its 1993 UST deregistering were misplaced, according to the Board. The Board reiterated its long-held position that it lacks authority to review OSFM registration or deregistration decisions under the Gasoline Storage Act (430 ILCS 15/4 (2002)). The Board found that such decisions are appealable only to the circuit court under the Administrative Review Law (735 ILCS 5/3-101 et seq. (2002)). In January, 2003, Vogue asked the Board to reconsider its decision, arguing that the Board had misapplied Section 7(b) of the Gasoline Storage Act, and that the Board did have jurisdiction to review the OSFM deregistration order. The Board denied the motion.

The First District's Decision

When filing the appeal, Vogue Tyre did not name the Board as a party respondent. In April 2003, the OSFM and the Board moved to dismiss, arguing that the appellant's failure to name all necessary parties of record pursuant to Supreme Court Rule 335 was a fatal error. Instead of ruling on the motion, the court decided to "take the motion with the case," and required the parties and the Board to fully brief the underlying environmental issues. Before oral argument, however, the court issued its 14-page order dismissing the appeal on the grounds argued by the Board. The court agreed, dismissing the appeal in order. Because the appeal was dismissed due to procedural defect, the court did not reach any of the UST issues briefed by the parties.

The court looked to the language of Section 3-113(b) of the Administrative Review Law and the identical language of Supreme Court Rule 335(a) on who must be named as a respondent in petitions for direct appellate court review of administrative orders. The court noted that both provisions "clearly and unambiguously state that '[t]he agency and all other parties of record shall be named as respondents.'" Vogue Tyre Rubber & Co. v. Office of the State Fire Marshal No. 1-03-0521 (November 2, 2004), slip op at 7. The court cited long-standing precedent for the proposition that because Illinois appellate courts exercise special statutory jurisdiction in reviewing administrative actions, those who seek to appeal must strictly adhere to the statute (i.e., Section 41(a) of the Environmental Protection Act, which incorporates the Administrative Review Law); when those parties do not strictly comply, the court cannot consider the appeal. "Substantial compliance," such as by merely serving the Board with the petition for review and referring to the Board order, is not sufficient. See *Id.*, slip op. 8-9, citing, among other cases, McGaughy v. Illinois Human Rights Comm'n, 165 Ill. 2d 1, 6-7, 649 N.E. 2d 404 (1995) and New York Carpet World, Inc. v. Dept. of Employment Security, 283 Ill. App. 3d 497, 669 N.E.2d 1321 (1996).

The court then addressed whether it could grant Vogue Tyre's motion for leave to amend its petition to add the Board. The court looked to Section 3-113(b) of the Administrative Review Law on amending petitions. The

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provision allows a petitioner to amend its petition, but only if the unnamed party "was not named by the administrative agency in its final order as a party of record." Vogue Tyre Rubber & Co. v. Office of the State Fire Marshal No. 1-03-0521 (November 2, 2004), slip op at 9-10. Vogue Tyre argued that it could amend because the Board failed to name itself in its final order as a party of record, relying on Cook County Sheriff's Enforcement Ass'n. v. County of Cook, 323 Ill. App. 3d 853, 753 N.E.2d 309 (2001).

The court rejected Vogue's position, finding persuasive the reasoning of the court in County of Cook v. Illinois Labor Relations Board Local Panel, 347 Ill. App. 3d 538, 555, 807 N.E.2d 613 (2004). The court held that strict adherence to the plain statutory language of Section 3-113(b) of the Administrative Review Law "does not provide an exception that allows a petitioner to amend its petition for review to name the agency as respondent." The court concluded that Vogue Tyre could not amend and therefore the court lacked jurisdiction to hear the appeal. Vogue Tyre Rubber & Co. v. Office of the State Fire Marshal No. 1-03-0521 (November 2, 2004), slip op at 13-14.

Second District Dismisses Premature Appeal in Skokie Valley Asphalt et al. v. Illinois Pollution Control Board et al., No. 2-04-0977 (November 18, 2004) (PCB96-98)

In a November 18, 2004 final unpublished order under Supreme Court Rule 23 (155 Ill.2d R. 23), the Third District Appellate Court dismissed, for lack of jurisdiction, the appeal captioned Skokie Valley Asphalt et al. v. Illinois Pollution Control Board et al., No. 2-04-0977 (November 18, 2004). The Board and the People of the State of Illinois had moved for dismissal, arguing that the appeal was premature. The court agreed, dismissing the appeal in a one-paragraph order.

The case at issue here is People of the State of Illinois v. Skokie Valley Asphalt, Inc., Edwin L. Frederick, Jr. and Richard J. Frederick, PCB 96-98 (September 2, 2004). On November 3, 1995, the People filed a complaint against Skokie Valley Asphalt Co., Inc. (Skokie Valley), concerning a facility at Grayslake Village, Lake County. The complaint alleged violations dating from May 1986 to March 1991. In December 1997, the People filed a first amended complaint that added an additional count against Skokie Valley. On July 26, 2002, the complainant filed a second amended complaint adding the Fredericks as respondents individually and in their capacities as owners and corporate officers of Skokie Valley.

In a September 2, 2004 opinion and order, the Board found that, as alleged, each of the respondents committed water pollution in violation of Sections 12 (a) and (f) of the Environmental Protection Act (Act) (415 ILCS 5 (2002)), and each violated various provisions of the Board's water pollution and National Pollutant Discharge Elimination System (NPDES) regulations. The Board's order directed the respondents to pay a civil penalty of \$153,000 within 30 days.

But, the Board withheld decision regarding the People's request for attorney fees and costs under Section 42 of the Act, and directed each party to address the issue within a time certain. Under these circumstances, the Board and the People argued that the appeal was premature because the September 2, 2004 order was not final and appealable, since it did not resolve all matters at issue in the case.

The court's November 18, 2004 order dismissing the appeal stated that it was "final and shall stand as the mandate of this Court". The Board according expects additional proceedings in this case prior to its entry of a final order covering all issues, including the People's attorney fees request.

Rule Update

Board Adopts Non-substantive First Notice Opinion and Order in Mercury Wastes Under P.A. 93-0964: Amendments to Standards for Universal Waste Management (35 Ill. Adm. Code 703, 720, 721, 724, 725, 728, and 733) (R05-08)

On November 4, 2004, the Board adopted a first notice opinion and order in Mercury Wastes Under P.A. 93-0964: Amendments to Standards for Universal Waste Management (35 Ill. Adm. Code 703, 720, 721, 724, 725, 728, and 733) (R05-08). The first notice is a non-substantive one, in which the Board publishes a newly-filed proposal "as it

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comes in the door,” without Board comment on the merits of the proposal. This proposal, filed by the Illinois Environmental Protection Agency (IEPA) on October 19, 2004, seeks to amend the Board’s rules governing the standards for universal waste management found in the Board’s existing rules at 35 Ill. Adm. Code 703, 720, 721, 724, 725, 728, and 733. The amendments in this rulemaking implement Public Act 93-964, which became effective on August 20, 2004.

Public Act 93-964 requires the IEPA to propose, within 60 days of its effective date, rules that formally designate as “universal waste” mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during manufacture. This tracks a United States Environmental Protection Agency proposal published in the *Federal Register* at 67 Fed. Reg. 40507 (June 12, 2002) that seeks to amend the federal universal waste regulations under the Resource Conservation and Recovery Act to include mercury-containing devices as universal waste.

The General Assembly mandated the Board to adopt the rules within 180 days after the receipt of the IEPA proposal, i.e. on or before April 15, 2005. In order to meet that deadline the Board sent the rulemaking to first notice after making only minor, non-substantive grammatical, typographical, and mechanical changes to the proposal to conform the proposal to codification requirements. The Board has also included several Board notes in the rules indicating that certain provisions were required by Public Act 93-964, and were not federally-derived identical-in-substance rules.

Hearings have been scheduled for December 15, 2004, in Chicago and on January 6, 2005 in Springfield.

Copies of the Board’s opinion and order in R05-08 may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board’s Web site at www.ipcb.state.il.us.

For more information contact Marie Tipsord at (312) 814-4925 or email at tipsordm@ipcb.state.il.us.

Board Actions

November 4, 2004
Via Videoconference
Springfield and Chicago, Illinois

Rulemakings

R05-8	<u>In the Matter of: Mercury Wastes Under PA 93-0964: Amendments to Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720, 721, 724, 725, 728, and 733)</u> – The Board accepted for hearing the Illinois Environmental Protection Agency’s October 19, 2004 proposal to amend the Board’s land pollution control regulations. The Board adopted a proposal for public comment.	5-0 R, Land
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Adjusted Standards

AS 02-5	<u>In the Matter of: Petition of Noveon, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 304.122</u> – The Board granted this Marshall County petitioner an adjusted standard, with conditions, from the ammonia effluent limit.	5-0 Water
AS 04-4	<u>In the Matter of: Johns Manville for an Adjusted Standard from 35 Ill. Adm. Code Part 814, 811.310, 811.311, 811.318, 811.320</u> – The Board accepted petitioners’ amended petition, and on the Board’s own motion set it for hearing.	5-0 Land

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Administrative Citations

AC 04-27	<u>IEPA v. Douglas S. Carrico d/b/a Carrico's Auto Heap</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$390.89 and a civil penalty of \$1,500. This order follows the Board's interim order of September 2, 2004, which found that this respondent had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)) at his Greene County facility.	5-0
AC 04-46	<u>IEPA v. Christopher Coleman</u> – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and (p)(7) (2002)) and assessing a penalty of \$3,000. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent.	5-0
AC 05-4	<u>IEPA v. G.T.&L., Inc.</u> – The Board dismissed this petition for review due to respondent's failure to file an amended petition curing deficiencies. The Board found that this Cook County respondent violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2002)), and ordered respondent to pay a civil penalty of \$3,000.	5-0
AC 05-21	<u>IEPA v. Willis E. Farley, Jr.</u> – The Board found that this Mason County respondent violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2002)), and ordered respondent to pay a civil penalty of \$3,000.	5-0
AC 05-22	<u>County of Sangamon v. James Withers</u> – The Board found that this Sangamon County respondent violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)), and ordered respondent to pay a civil penalty of \$1,500.	5-0
AC 05-24	<u>City of Chicago Department of Environment v. Richland Group Enterprises, Inc.</u> – The Board found that this Cook County respondent violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2002)), and ordered respondents to pay a civil penalty of \$3,000.	5-0
AC 05-27	<u>IEPA v. Lee County Landfill SC, L.L.C. and Dave Geier</u> – The Board found that these Lee County respondents violated Section 21(o)(5) of the Environmental Protection Act (415 ILCS 5/21(o)(5) (2002)), and ordered respondent to pay a civil penalty of \$500.	5-0

Decisions

PCB 01-43	<u>People of the State of Illinois v. Michael Stringini</u> – The Board found that respondent violated 415 ILCS 21(a), (e) and (f) (2002); and 35 Ill. Adm. Code 703.121, 703.150, 724.194(a), 725.113(b), 725.114, 725.115(a) and (b), 725.131, 725.173, 725.190, 725.271, 725.273(a) and (b), 725.274, 725.351, and 728.150(a). The Board ordered respondent to pay a total civil penalty of \$110,000 and to cease and desist from further violations.	5-0 RCRA-E
PCB 04-227	<u>People of the State of Illinois v. Rogers Development Company</u> – In this water enforcement action concerning a Winnebago 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$5,000 and to cease and desist from further violations.	5-0 W-E

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Motions and Other Matters

PCB 91-17	<u>Noveon, Inc. v. IEPA</u> – The Board denied petitioner’s motion for oral arguments for reconsideration of the Board’s September 16, 2004 order, affirming the Illinois Environmental Protection Agency’s inclusion of conditions in petitioner’s National Pollutant Discharge Elimination System permit.	5-0 P-A, Water
PCB 04-101	<u>People of the State of Illinois v. DuPage Machine Products, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a DuPage County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
PCB 04-185	<u>Midwest Generation EME, Inc. v. IEPA</u> – The Board denied the Sierra Club’s motion to intervene and petitioner’s motion to partially reconsider the Board order of May 6, 2004. The Board also ordered a limited remand to Illinois Environmental Protection Agency (IEPA) for the IEPA to specify its reasoning for denying trade secret protection.	5-0 T-S Appeal
PCB 04-207	<u>People of the State of Illinois v. Edward Pruiem, an individual, and Robert Pruiem, an individual</u> – The Board denied respondents’ motion to dismiss the complaint.	5-0 L-E
PCB 04-224	<u>People of the State of Illinois v. Heritage FS, 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 Kankakee County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 05-15	<u>Bill Carter d/b/a Carter Convenience v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a White County facility.	5-0 UST Appeal
PCB 05-16	<u>Royer Oil (Sorento Garage) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Bond County facility.	5-0 UST Appeal
PCB 05-67	<u>John F. Nocita v. Application of Greenwood Transfer, L.L.C. for Transfer Station Local Siting Approval in Village of Maywood, Illinois</u> – The Board on its own motion dismissed this petition for review, finding that the Board lacks jurisdiction under the Environmental Protection Act to hear this appeal.	5-0 P-C-F-S-R 3 rd party
PCB 05-72	<u>Robert and Tony Thompson v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Alexander County facility.	5-0 UST Appeal
PCB 05-73	<u>City of Sullivan 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 Moultrie County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-74	<u>Hartford Working Group v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Madison County facility. No action was taken on petitioner’s motion to stay effectiveness of the contested permit conditions.	5-0 P-A, Air

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PCB 05-75	<u>People of the State of Illinois v. Dennis Elahi d/b/a Paramount Management and Construction Company</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
PCB 05-76	<u>Kramer's Service Station 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 Vermilion County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-77	<u>Wiseman/PJ's Shortstop v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Edgar County facility.	5-0 UST Appeal

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Via Videoconference
Springfield and Chicago, Illinois**

Administrative Citations

AC 05-29	<u>IEPA v. Charles L. Riggins</u> – The Board accepted for hearing this petition for review of an administrative citation against this Mason County respondent.	5-0
AC 05-30	<u>IEPA v. Doug and Theresa Christison</u> – The Board found that these Pike County respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)), and ordered respondent to pay a civil penalty of \$1,500.	5-0

Motions and Other Matters

PCB 01-102	<u>Cassen and Sons, Inc. v. IEPA</u> – The Board denied petitioner's motion for summary judgment. The Board granted respondent's motion for summary judgment, affirming the November 29, 2000 decision denying reimbursement.	5-0 UST Appeal
PCB 02-104	<u>Metropolitan Water Reclamation District of Greater Chicago v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this permit appeal involving a Cook County facility.	5-0 P-A, NPDES
PCB 04-48	<u>Village of Robbins and Allied Waste Transportation, Inc. v. IEPA</u> – The Board denied the Village of Robbins' motion to reconsider its September 16, 2004 Board Order.	5-0 P-A, Land
PCB 04-81	<u>People of the State of Illinois v. Emmett Utilities, Inc. and Russell D. Thorell, individually and as president of Emmett Utilities, Inc.</u> – The Board granted complainant's motion for voluntary dismissal of this public water supply enforcement action involving a McDonough County facility.	5-0 PWS-E

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PCB 04-155	<u>Elston/Webster, L.P. and Renaissance Realty Group L.L.C. v. IEPA</u> – The Board granted petitioners' motion for voluntary dismissal of this underground storage tank appeal involving a Cook County facility.	5-0 UST Appeal
PCB 05-17	<u>Union County Oil Company v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Union County facility.	5-0 UST Appeal
PCB 05-18	<u>Ted Harrison Oil Company v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Cass County facility.	5-0 UST Appeal
PCB 05-19	<u>Hall's Automotive (SICR) v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Hardin County facility.	5-0 UST Appeal
PCB 05-20	<u>Hall's Automotive (SIPB) v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Hardin County facility.	5-0 UST Appeal
PCB 05-21	<u>Randy's Shell v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Piatt County facility.	5-0 UST Appeal
PCB 05-22	<u>L. Keller Oil Properties, Inc. (Downtown Shell) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Effingham County facility.	5-0 UST Appeal
PCB 05-23	<u>Keller Oil (Edgewood) v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Effingham County facility.	5-0 UST Appeal
PCB 05-24	<u>Premcor Refining Group, Inc. (Streator) v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this LaSalle County facility.	5-0 UST Appeal
PCB 05-25	<u>Premcor Refining Group, Inc. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Tazewell County facility.	5-0 UST Appeal
PCB 05-49	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – The Board denied complainant's motion to accept the complaint for hearing and granted complainant's motion to his withdraw motion to join the Illinois Environmental Protection Agency as Party in Interest. The Board reserved ruling on the motion for expedited discovery pending the resolution of respondent's motion to dismiss the complaint.	5-0 A&L-E
PCB 05-74	<u>Hartford Working Group v. IEPA</u> – The Board granted petitioner's motion to stay effectiveness of the contested CAAPP Permit condition pending decision of this appeal.	5-0 P-A, Air

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PCB 05-78	<u>People of the State of Illinois v. Ralph Stone, Mayor of the Village of Gorham</u> – The Board accepted for hearing this air enforcement action involving a site located in Jackson County.	5-0 A-E
PCB 05-79	<u>Geneseo Pork, Inc. (Property Identification Number 09-03-200-001-0011) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Geneseo Pork, Inc. located in Henry County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C
PCB 05-80	<u>McLean Properties, L.L.C. (Property Identification Number 16-27-34-200-003) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C
PCB 05-81	<u>Kathryn Bradley and Brian Bradley (Property Identification Number 06-022-007-00) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Kathryn Bradley and Brian Bradley located in Brown County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C
PCB 05-82	<u>Bradley Mobil 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 Kane County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-83	<u>Bowman Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Franklin County facility.	5-0 UST Appeal
PCB 05-84	<u>Gateway FS, Inc. 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 Randolph County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-85	<u>Citgo Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA</u> – The Board accepted for hearing this petition requesting a variance involving a Will County facility.	5-0 W-V
PCB 05-86	<u>People of the State of Illinois v. Fairacres Subdivision Association</u> – The Board accepted for hearing this public water supply enforcement action involving a site located in Rock Island County.	5-0 PWS-E
PCB 05-87	<u>Johnathan Troyer (Property Identification Number 10-0-0044-000-00) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Jonathan Troyer located in Adams County are pollution control facilities for the	5-0 T-C

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	purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	
PCB 05-88	<u>For C Pork Farm (Property Identification Number 14-F1-36-35-100-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of For C Pork Farm located in Iroquois County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C
PCB 05-89	<u>People of the State of Illinois v. Redfearn Earthmoving, Inc.</u> – The Board accepted for hearing this water enforcement action involving a site located in Jo Daviess County.	5-0 W-E
PCB 05-90	<u>Harper Oil Company v. IEPA</u> – The Board accepted for hearing this public water supply enforcement action involving a site located in Jefferson County.	5-0 UST Appeal 90-Day Ext.
PCB 05-91	<u>People of the State of Illinois v. Clean Harbors Services, Inc.</u> – The Board accepted for hearing this air enforcement action involving a site located in Cook County.	5-0 A-E
PCB 05-92	<u>People of the State of Illinois v. Specialty Promotions, Inc. d/b/a Specialty Printing Company</u> – The Board accepted for hearing this air enforcement action involving a site located in Cook County.	5-0 A-E

New Cases

November 4, 2004 Board Meeting

05-072 Robert and Tony Thompson v. IEPA – The Board accepted for hearing this underground storage tank appeal involving an Alexander County facility.

05-073 City of Sullivan 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 Moultrie County facility.

05-074 Hartford Working Group v. IEPA – The Board accepted for hearing this permit appeal involving a Madison County facility. No action was taken on petitioner's motion to stay effectiveness of the contested permit conditions.

05-075 People of the State of Illinois v. Dennis Elahi d/b/a Paramount Management and Construction Company – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.

05-076 Kramer's Service Station 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 Vermilion County facility.

05-077 Wiseman/PJ's Shortstop v. IEPA – The Board accepted for hearing this underground storage tank appeal involving an Edgar County facility.

AC 05-032 IEPA v. James Haas, Jr. – The Board accepted an administrative citation against this Carroll County respondent.

AC 05-033 IEPA v. Leo and Debra Harn – The Board accepted an administrative citation against these McDonough County respondents.

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AC 05-034 County of LaSalle v. Earl Cazel – The Board accepted an administrative citation against this LaSalle County respondent.

November 18, 2004 Board Meeting

05-078 People of the State of Illinois v. Ralph Stone, Mayor of the Village of Gorham – The Board accepted for hearing this air enforcement action involving a site located in Jackson County.

05-079 Geneseo Pork, Inc. (Property Identification Number 09-03-200-001-0011) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Geneseo Pork, Inc. located in Henry County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-080 McLean Properties, L.L.C. (Property Identification Number 16-27-34-200-003) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of McLean Properties, L.L.C. located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-081 Kathryn Bradley and Brian Bradley (Property Identification Number 06-022-007-00) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Kathryn Bradley and Brian Bradley located in Brown County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-082 Bradley Mobil 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 Kane County facility.

05-083 Bowman Oil Company v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Franklin County facility.

05-084 Gateway FS, Inc. 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 Randolph County facility.

05-085 Citgo Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA – The Board accepted for hearing this petition requesting a variance involving a Will County facility.

05-086 People of the State of Illinois v. Fairacres Subdivision Association – The Board accepted for hearing this public water supply enforcement action involving a site located in Rock Island County.

05-087 Johnathan Troyer (Property Identification Number 10-0-0044-000-00) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Jonathan Troyer located in Adams County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-088 For C Pork Farm (Property Identification Number 14-F1-36-35-100-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of For C Pork Farm located in Iroquois County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

05-089 People of the State of Illinois v. Redfearn Earthmoving, Inc. – The Board accepted for hearing this water enforcement action involving a site located in Jo Daviess County.

05-090 Harper Oil Company v. IEPA – The Board accepted for hearing this public water supply enforcement action involving a site located in Jefferson County.

05-091 People of the State of Illinois v. Clean Harbors Services, Inc. – The Board accepted for hearing this air enforcement action involving a site located in Cook County.

05-092 People of the State of Illinois v. Specialty Promotions, Inc. d/b/a Specialty Printing Company – The Board accepted for hearing this air enforcement action involving a site located in Cook County.

05-093 York High Neighborhood Committee (a voluntary organization) Janet and Fred Hodge, Patricia and David Bennett, Sheila and Mike Trant, Joe Vosicky, Jean and Peter Conroy, Frank Soldano, Joseph Reamer, Elizabeth and

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Charles Laliberte v. Elmhurst Public Schools, District 205 – The Board held for a later duplicative/frivolous determination this citizens’ noise enforcement action involving a DuPage County facility.

AC 05-035 IEPA v. Knox County Landfill Committee and Greg Ingle – The Board accepted an administrative citation against these Knox County respondents.

AC 05-036 County of Sangamon v. Leland Cole – The Board accepted an administrative citation against this Sangamon County respondent.

R05-009 In the Matter of: Setback Zone for City of Marquette Heights Community Water Supply. New 35 Ill. Adm. Code 618 – No action taken.

R05-010 In the Matter of: Bacteria (E-Coli) Water Quality Standard for Lake Michigan and Mississippi River. Proposed Amendments to 35 Ill. Adm. Code 302 and 303 – No action taken.

Calendar

12/2/04	<u>Illinois Pollution Control Board Meeting</u>		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
12/13/04 9:00AM	PCB 99-187	Gina Pattermann v. Boughton Trucking and Materials, Inc.	Bolingbrook Village Hall Boardroom 375 West Briar Cliff Road Bolingbrook
12/14/04 9:00AM	PCB 99-187	Gina Pattermann v. Boughton Trucking and Materials, Inc.	Bolingbrook Village Hall Boardroom 375 West Briar Cliff Road Bolingbrook
12/15/04 10:00 AM	R05-08	In the Matter of: Mercury Wastes Under PA 93-0964: Amendments to Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720, 721, 724, 725, 728, and 733)	McHenry County College Room B 166-167 8900 U.S. Highway 14 Crystal Lake
12/16/04	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Hearing Room 9-040 100 W. Randolph Street Chicago
1/6/05	<u>Illinois Pollution Control Board Meeting</u>		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield

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1/6/05 1:30 PM	R05-08	In the Matter of: Mercury Wastes Under PA 93-0964: Amendments to Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720, 721, 724, 725, 728, and 733)	Illinois Environmental Protection Agency Training Room 1214 West North Entrance 1021 N. Grand Avenue East Springfield
1/20/05	<u>Illinois Pollution Control Board Meeting</u>		James R. Thompson Center Hearing Room 9-040 100 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 (IEPA) has prepared the following list of facilities which are on Restricted Status. Restricted Status is defined as the IEPA 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 the IEPA for a final determination. This listing reflects the status as of September 30, 2004.

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>
Alhambra STP	Village of Alhambra	Madison	0
Bonnie Brae Forest Manor SD STP	Bonnie Brae Forest Manor SD	Will	0
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
East Alton	City of East Alton	Madison	0
Farmington	City of Farmington	Fulton	0
Hurst & Blairville Collection System	City of Hurst	Williamson	0
Lockport Heights SD STP	City of Lockport	Will	0
Maple Lawn Homes STP	Maple Lawn Homes	Woodford	0
Poplar Grove South STP	Village of Poplar Grove	Boone	0
Poplar Grove North STP	Village of Poplar Grove	Boone	0
Port Byron STP	Village of Port Byron	Rock Island	0

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Rosewood Heights S.D.- Ninth Street LS	Rosewood Heights S.D.	Madison	0
Saint Elmo	City of Saint Elmo	Fayette	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: Alhambra STP

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 (IEPA) has prepared the following list of facilities which are on Critical Review. Critical Review as defined as the IEPA 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 IEPA for a final determination. This listing reflects the status as of September 2004.

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

<u>FACILITY</u> <u>NAME</u>	<u>RESPONSIBLE</u> <u>AUTHORITY</u>	<u>COUNTY</u>	<u>REMAINING</u> <u>CAPACITY</u>	<u>PE ADDED</u> <u>SINCE</u> <u>LAST LIST</u>
Antioch STP	Village of Antioch	Lake	612	126
Beardstown SD	City of Beardstown	Cass	1,731	38
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
Dakota	Village of Dakota	Stephenson	90	0
Downers Grove S.D.	Downers Grove S.D.	DuPage	3,152	187
East Dundee STP	Village of E. Dundee	Kane	556	0
Elkville	Village of Elkville	Jackson	6	0
Ferson Creek Utilities Co.	Utilities, Inc.	Will	70	0
LCPWD-Diamond- Sylvan STP	County of Lake Public Works Department	Lake	0	0
Lake Barrington Home Owners Assn. STP	Lake Barrington Home Owners Assn.	Lake	80	0
Lockport	City of Lockport	Will County	3,447	2,343

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Moline (North Slope)	City of Moline	Rock Island	1,151	0
Morris STP	City of Morris	Grundy	0	151
New Lenox STP 1**	Village of New Lenox	Will	1,603	287
Paris STP	City of Paris	Edgar	0	42
Rock Island (Main)	City of Rock Island	Rock Island	4,570	0
Streator	City of Streator	LaSalle/ Livingston	765	335
Wauconda – Remaining Collection System & Lakeview Villa LS	Village of Wauconda	Lake	***	7
Wauconda WWTP	Village of Wauconda	Lake		

Deletions from previous quarterly report: Thompsonville STP

Additions from previous quarterly report: None

***Contact IEPA – Permit Section

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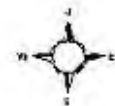
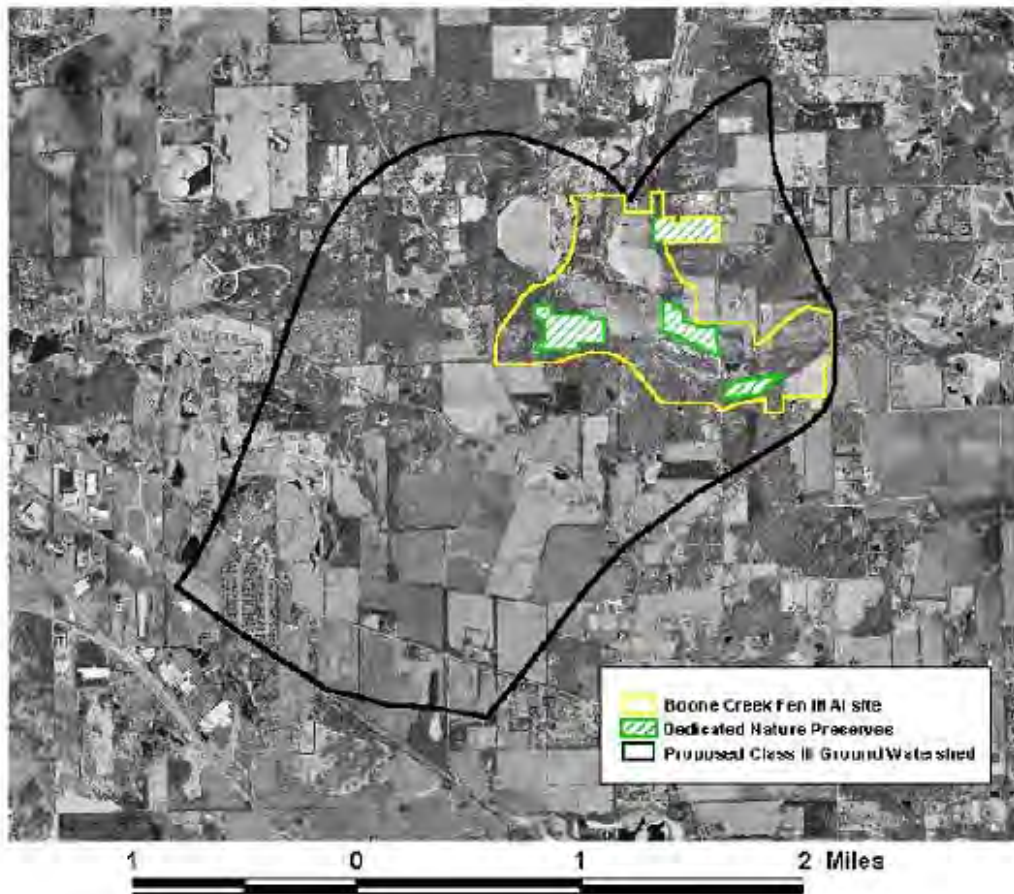
Boone Creek Class III Special Resource Groundwater Listing Notice

The Illinois Environmental Protection Agency (IEPA) requests a proposed listing of Boone Creek Fen, Spring Hollow, Lee Miglin Savanna, and Amberin Ash Ridge, which are dedicated nature preserves (DNPs), and the area that contributes groundwater to the DNPs, as Class III: Special Resource Groundwater. These four privately owned nature areas are located in central McHenry County, Illinois, approximately three miles east of the City of Woodstock. The DNPs are comprised of 88.15-acres, located in the McHenry Quadrangle, Township 4 South, Range 7 East of the Third Principal Meridian, Sections 1, 2, 11, and 12. The DNPs and the groundwater contribution area is an irregularly shaped 5.04 square mile (3,227.4 acre) tract of land. The recharge area is located predominantly to the south and west of the DNPs.

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 IEPA. The IEPA 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 IEPA is required to publish a final listing in the *Environmental Register*.

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

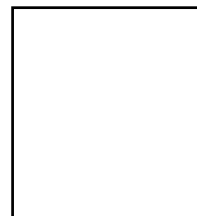
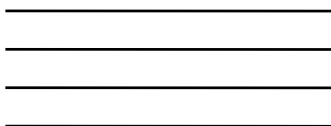
Exhibit 1. Boone Creek Fen INAI Site, Dedicated Nature Preserves and Proposed Class III Ground Watershed



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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Environmental Register Coordinator
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Environmental Register

August 2003 - Number 590

The Environmental Register is a Publication of the Illinois Pollution Control Board

Thomas E. Johnson, Chairman

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Letter from the Chairman

The Illinois Pollution Control Board is constantly reviewing its practices and procedures to ensure that they are user-friendly and to promote public accessibility the Board. To that end, the Board has opened two rulemakings to accommodate new provisions for electronic filing and recent changes to the Environmental Protection Act (Act).



to

On August 21, 2003, the Board opened the rulemaking entitled Amendments to the Board's Procedural Rules: 35 Ill. Adm. Code 101-130 (R04-8). This docket includes amendments proposed in the now closed docket R03-10 that addressed electronic filing through the Board's new Clerk's Office On-Line (COOL) and those necessitated by new legislation. Public Act 93-152, effective July 10, 2003, amended the Act so that, among other things, the Board may accept settlements in citizen enforcement actions without a public hearing. The new law also provides a new rulemaking procedure for updating incorporations by reference. The Board will address all needed procedural rule amendments at one time in docket, R04-8, rather than opening multiple dockets and having new procedural rules taking effect on different dates. The Board incorporated the R03-10 docket into R04-8.

Also on August 21, 2003, the Board opened the rulemaking entitled Amendments to the Board's Administrative Rules: 2 Ill. Adm. Code 2175, in which the Board will propose amendments to its administrative rules primarily to accommodate the payment of filing fees when filing electronically through COOL.

Additionally, the Board recently created an e-mail subscription service for the *Environmental Register*. Many of you are already taking advantage of this service, and the Board expects and encourages many more of you to sign up.

As the Board moves to improve its public accessibility, the hard work of the information technology (IT) staff is readily apparent. Recently, when conducting an internet search using the Google search engine, the Illinois Pollution Control Board's Website was displayed first in the search results. This placement is, in part, due to the content of the Board's Website—including COOL and Rulemakings Pending areas. The Board appreciates the dedication and hard work of its IT, Clerk's Office, rulemaking and public information staff.

Sincerely,

A handwritten signature in black ink, appearing to be "Thomas E. Johnson". The signature is stylized, with a large, looped initial "T" and a long horizontal stroke extending to the right.

Thomas E. Johnson, Chairman

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CLASS III GROUNDWATER LISTING DESIGNATION	P. 15

Federal Update**United States Environmental Protection Agency Proposes Amendments to the National Primary Drinking Water Regulations Under the Safe Drinking Water Act**

On August 11, 2003 (68 Fed. Reg. 47639), the United States Environmental Protection Agency (USEPA) proposed amendments to the National Primary Drinking Water Regulations' Long Term 2 Enhanced Surface Water Treatment Rule. The rules will apply to all public water supplies (PWSs) that use surface water sources. They will require the use of specified treatment techniques, along with monitoring, reporting, and public notification requirements.

The purposes of the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) are to improve control of microbial pathogens, including specifically the protozoan *Cryptosporidium*, in drinking water and to address risk-risk trade-offs with the control of disinfection byproducts. Key provisions in the proposed LT2ESWTR include: (1) source water monitoring for *Cryptosporidium*, with reduced monitoring requirements for small systems; (2) additional *Cryptosporidium* treatment for filtered systems based on source water *Cryptosporidium* concentrations; (3) inactivation of *Cryptosporidium* by all unfiltered systems; (4) disinfection profiling and benchmarking to ensure continued levels of microbial protection while PWSs take the necessary steps to comply with new disinfection byproduct standards; (5) covering, treating, or implementing a risk management plan for uncovered finished water storage facilities; and (6) criteria for a number of treatment and management options (i.e., the microbial toolbox) that PWSs may implement to meet additional *Cryptosporidium* treatment requirements.

The LT2ESWTR will build upon the treatment technique requirements of the Interim Enhanced Surface Water Treatment Rule and the Long Term 1 Enhanced Surface Water Treatment Rule. USEPA believes that implementation of the LT2ESWTR will significantly reduce levels of *Cryptosporidium* in finished drinking water. This will substantially lower rates of endemic cryptosporidiosis, the illness caused by *Cryptosporidium*, which can be severe and sometimes fatal in sensitive subpopulations (e.g., AIDS patients and the elderly). In addition, the treatment technique requirements of this proposal are expected to increase the level of protection from exposure to other microbial pathogens (e.g., *Giardia lamblia*).

Comment on the proposal must be received by November 10, 2003 and should be sent to: Water Docket, Environmental Protection Agency, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OW-2002-0039.

For technical inquiries, contact Daniel Schmelling, Office of Ground Water and Drinking Water (MC 4607M), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (202) 564-5281. For regulatory inquiries, contact Jennifer McLain at the same address; telephone (202) 564-5248. For general information contact the Safe Drinking Water Hotline, Telephone (800) 426-4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding legal holidays, from 9 a.m. to 5:30 p.m. Eastern Time.

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The Board will include any necessary amendments to Board rules resulting from this federal action in a future SDWA identical in substance rulemaking pursuant to Sections 7.2 and 17.5 of the Environmental Protection Act (415 ILCS 5/7.2, 22.4 (2002)).

United States Environmental Protection Agency Proposes Amendments to the National Primary Drinking Water Regulations Under the Safe Drinking Water Act

On August 18, 2003 (68 Fed. Reg. 49547), the United States Environmental Protection Agency (USEPA) proposed amendments to the National Primary Drinking Water Regulations' Stage 2 Disinfectants and Disinfection Byproducts Rule.

In this rulemaking, the USEPA is proposing: (1) maximum contaminant level goals for chloroform, monochloroacetic acid and trichloroacetic acid; (2) National Primary Drinking Water Regulations which consist of maximum contaminant levels (MCLs) and monitoring, reporting, and public notification requirements for total trihalomethanes; and (3) revisions to the reduced monitoring requirements for bromate. The USEPA has also specified the best available technologies for the proposed MCLs.

Additionally, USEPA is proposing analytical methods for the determination of disinfectants and disinfection byproducts (DBPs) in drinking water and proposing to extend approval of DBP methods for the determination of additional chemical contaminants. This set of regulations is known as the Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR). USEPA's objective for the Stage 2 DBPR is to reduce the potential risks of reproductive and developmental health effects and cancer associated with DBPs by reducing peak and average levels of DBPs in drinking water supplies. The Stage 2 DBPR applies to public water supplies that are community water systems or nontransient noncommunity water supplies that add a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light.

Comments on this proposal must be received or post-marked by midnight November 17, 2003 and should be sent to: Water Docket, Environmental Protection Agency, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OW-2002-0043.

For technical inquiries, contact Tom Grubbs, Office of Ground Water and Drinking Water (MC 4607M), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (202) 564-5262. For regulatory inquiries, contact Jennifer McLain at the same address; telephone (202) 564-5248. For general information contact the Safe Drinking Water Hotline, Telephone (800) 426-4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding legal holidays, from 9 a.m. to 5:30 p.m. Eastern Time.

The Board will include any necessary amendments to Board rules resulting from this federal action in a future SDWA identical in substance rulemaking pursuant to Sections 7.2 and 17.5 of the Environmental Protection Act (415 ILCS 5/7.2, 22.4 (2002)).

United States Environmental Protection Announces the Availability of its Draft Watershed-Based National Pollutant Discharge Elimination System (NPDES) Permitting Implementation Guidance

On August 25, 2003 (68 Fed. Reg. 51011), the United States Environmental Protection Agency (USEPA) announced the availability of its Draft Watershed-Based National Pollutant Discharge Elimination System (NPDES) Permitting Implementation Guidance.

USEPA is making the draft guidance available to the public for a period of thirty days during which USEPA is seeking comments on the document. The purpose of this guidance is to describe the concept of and the process for watershed-based permitting under the NPDES permit program.

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Watershed-based NPDES permitting is an approach to developing NPDES permits for multiple point sources located within a defined geographic area (i.e., watershed boundaries). This approach, aimed at achieving new efficiencies and environmental results, provides a process for considering all stressors within a hydrologically defined drainage basin or other geographic area, rather than addressing individual pollutant sources on a discharge-by-discharge basis. As outlined in the guidance, USEPA will continue to implement the NPDES program through its existing statutory and regulatory authorities. The guidance cannot impose legally binding requirements on USEPA, States, Tribes, or the regulated community, nor can it substitute for Clean Water Act requirements, USEPA's regulations, or the obligations imposed by consent decrees or enforcement orders.

Public comments on the draft guidance must be received on or before September 24, 2003 and should be sent to: Patrick Bradley, U.S. Environmental Protection Agency, EPA East Building (MC 4203M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

For further information contact Patrick Bradley, Telephone: (202) 564-0729. Facsimile Number: (202) 564-6392. E-mail: bradley.patrick@epa.gov

Rule Update

Board Dismisses 4 Identical in Substance Rulemaking Dockets As Unnecessary: Exemptions from the Definition of VOM Update, USEPA Regulations (January 1, 2003 through June 30, 2003), R04-2; UIC Update, USEPA Regulations (January 1, 2003 through June 30, 2003), R04-4; RCRA Subtitle C Update, USEPA Regulations (January 1, 2003 through June 30, 2003), R04-6; UST Update, USEPA Regulations (January 1, 2003 through June 30, 2003), R04-7

Every six months, the Board reserves a series of dockets for adoption of Board rules, to address any rules adopted by the United States Environmental Protection Agency (USEPA) to implement various programs. On August 7, 2003, the Board dismissed as unnecessary four dockets reserved to consider any rules adopted by USEPA during the period January 1, 2003 through June 30, 2003. In each of the four program areas described below, USEPA adopted no rules during the update period.

VOM Program (R04-2). Section 9.1(e) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(e) (2002)) requires the Board to adopt regulations that are “identical in substance,” as defined at Section 7.2 of the Act (415 ILCS 5/7.2 (2002)), to exemptions from the definition of “volatile organic material” (VOM), those compounds that the USEPA has found to be exempted from regulation under state implementation plans for ozone due to negligible photochemical reactivity. USEPA has codified these exemptions as part of its definitions at 40 C.F.R. 51.100(s).

UIC Program (R04-4). Section 13(c) of the Environmental Protection Act (Act) (415 ILCS 5/13(c) (2002)) requires the Board to adopt regulations that are “identical in substance” to regulations of the USEPA. 415 ILCS 5/7.2 (2002). Specifically, Section 13(c) relates to underground injection control (UIC) regulations that USEPA adopted to implement provisions of the Safe Drinking Water Act (42 U.S.C. § 300h *et seq.* (2000)). USEPA has codified its UIC regulations at 40 C.F.R. 144 through 148.

RCRA, Subtitle C (Hazardous Waste Program) (R03-6). Sections 7.2 and 22.4(a) of the Environmental Protection Act (415 ILCS 5/7.2 and 22.4(a) (2002)) require the Board to adopt regulations that are “identical in substance” to hazardous waste regulations adopted by the USEPA. These USEPA rules implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2000)).

UST Program (R04-7). Section 22.4(d) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(d) (2002)) requires the Board to adopt regulations which are “identical in substance,” as defined at Section 7.2 of the Act (415 ILCS 5/7.2 (2002)), to underground storage tank (UST) regulations promulgated by the USEPA pursuant to Section 9003 of the federal Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. § 6993 (2000), to

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implement Subtitle I of RCRA (42 U.S.C. §§ 6991 *et seq.* (2000)), with certain limitations. USEPA has codified its UST regulations at 40 C.F.R. 281 through 283.

For additional information contact Mike McCambridge at 312/814-6924; e-mail address: mccambm@ipcb.state.il.us.

Board Dismisses Outdated Procedural Rules Docket and Opens Two New Dockets to Amend its Procedural and Administrative Regulations

On August 21, 2003, the Board dismissed one outdated docket dealing with its procedural rules Revision Of The Board's Procedural Rules: 35 Ill. Adm. Code 101-130 (R03-10) and opened two new dockets to amend its procedural and administrative rules, Amendments To The Board's Procedural Rules: 35 Ill. Adm. Code 101-130 (R04-08) and Amendments To The Board's Administrative Rules: 2 Ill. Adm. Code 2175 (R03-09).

In its November 7, 2002 opinion and order in R03-10, the Board proposed amendments to its procedural rules to accomplish two primary objectives: (1) to allow electronic filing in all Board proceedings through the Board's new Clerk's Office On-Line or "COOL;" and (2) to reflect amendments to the Environmental Protection Act in P.A. 92-574, effective June 26, 2002, and to the Administrative Procedure Act in P.A. 92-330, effective August 9, 2001. However, more recent legislation makes additional changes necessary. Therefore, the Board closed outdated docket R03-10. In a separate order, the Board opened a new docket, R04-8, to most efficiently meet these same objectives and to adopt the necessary additional procedural rule amendments.

Additionally, the Board opened docket R04-09 to update its administrative rules. The administrative rules, last amended in 1996, describe the Board's organization, the types of Board proceedings, how to pay filing and photocopy fees, and how the public may access information. Amendments to these rules are needed primarily (1) to reflect recent statutory changes affecting the Board; (2) to accommodate filing fee payment when filing electronically is allowed through the Board's new Clerk's Office On-Line or "COOL"; and (3) to update information about the Board's proceedings and offices.

The Board plans to proceed expeditiously to first-notice publication of the proposed procedural and administrative rule amendments in the *Illinois Register*, which will start a 45-day period during which anyone may file public comments with the Board.

For additional information contact Richard McGill at 312/814-6983; e-mail address: mcgillr@ipcb.state.il.us.

Board Actions

August 7, 2003

Via Teleconference

Chicago and Springfield, Illinois

Rulemakings

R04-2	<u>In the Matter of: Exemptions from the Definition of VOM Update, USEPA Regulations (January 1, 2003 through June 30, 2003</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its exemptions from the definition of volatile organic material during the update period of January 1, 2003 through June 30, 2003.	7-0 R. Air
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R04-4	<u>In the Matter of: UIC Update, USEPA Regulations (January 1, 2003 through June 30, 2003)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its underground injection control regulations during the update period of January 1, 2003 through June 30, 2003.	7-0 R, Land
R04-6	<u>In the Matter of: RCRA Subtitle C Update, USEPA Regulations (January 1, 2003 through June 30, 2003)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its hazardous waste regulations during the update period of January 1, 2003 through June 30, 2003.	7-0 R, Land
R04-7	<u>In the Matter of: UST Update, USEPA Regulations (January 1, 2003 through June 30, 2003)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its exemptions from the definition of underground storage tank during the update period of January 1, 2003 through June 30, 2003.	7-0 R, Land

Adjusted Standards

AS 01-3	<u>In the Matter of: Petition of DeKalb Sanitary District for an Adjusted Standard from 35 Ill. Adm. Code 302.208(e)</u> – The Board granted petitioner’s motion for voluntary dismissal of this request for an adjusted standard involving a DeKalb County facility.	7-0 Water
AS 03-5	<u>In the Matter of: Petition of Cromwell-Phoenix, Inc. for an Adjusted Standard from 35 Ill. Adm. Code Subpart F, Section 218.204(c)</u> – The Board granted petitioner’s motions for expedited review and transcripts.	7-0 Air

Decisions

PCB 95-180	<u>People of the State of Illinois v. Archer Daniels Midland Company</u> – In this air enforcement action concerning a Macon 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$160,000 and to cease and desist from further violations.	7-0 A-E
PCB 97-33	<u>People of the State of Illinois v. Archer Daniels Midland Company</u> – In this air enforcement action concerning a Peoria 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$80,000 and to cease and desist from further violations.	7-0 A-E
PCB 98-148	<u>People of the State of Illinois v. Doren Poland, Lloyd Yoho, and Briggs Industries, Inc. a/k/a Briggs Plumbing Products, Inc.; Briggs Industries, Inc., Third-Party Complainants v. Loren West and Abingdon Salvage Company, Inc.,</u>	7-0 L-E

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Third Party Respondents – The Board entered a final order finding respondent Briggs liable for civil penalties in the amount of \$25,000 and Poland and Yoho liable for civil penalties in the amount of \$5,000. The Board also ordered respondents to remediate the unpermitted area by applying a final cover. This order follows the Board's interim order of September 6, 2001, which found that respondents violated Sections 21(a), (d), (e), and (p)(1) of the Environmental Protection Act (415 ILCS 5/21(a), (d), (e), (p)(1) (2002)) and 35 Ill. Adm. Code 807.201, 807.202(a), 812.101 of the Board's waste disposal regulations at a site located in Knox County. The Board ordered that the third-party complaint be remanded to the hearing officer for hearing.

PCB 99-92	<u>People of the State of Illinois v. Hartz Construction Co., Inc.</u> – In this land enforcement action concerning a Cook 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$31,500 and to cease and desist from further violations.	7-0 L-E
PCB 00-219	<u>Stephen G. Brill v. Henry Latoria d/b/a TL Trucking Foodliner</u> –The Board entered a final order, which ordered respondent to implement physical and operational noise reduction measures to eliminate the unreasonable noise interferences. This order follows the Board's interim order of June 6, 2002, which found that respondent violated Sections 9(a) and 24 of the Environmental Protection Act (415 ILCS 5/9(a), 24 2002) and 35 Ill. Adm. Code 900.102 of the Board's regulations at a site located in Cook County.	7-0 Citizens A&N-E
PCB 03-125 PCB 03-133 PCB 03-134 PCB 03-135	<u>City of Kankakee v. County of Kankakee, County Board of Kankakee, and Waste Management of Illinois, Inc.; Merlin Karlock v. County of Kankakee, County Board of Kankakee, and Waste Management of Illinois, Inc.; Michael Watson v. County of Kankakee, County Board of Kankakee, and Waste Management of Illinois, Inc.; and Keith Runyon v. County of Kankakee, County Board of Kankakee, and Waste Management, Inc.</u> – The Board vacated the Kankakee County Board's (County Board) January 31, 2003 decision granting an application for expansion of a pollution control facility owned and operated by Waste Management of Illinois, Inc. for the facility located in Kankakee County, Illinois. The Board found that the County Board lacked jurisdiction to review the siting application.	7-0 P-C-F-S-R

Motions and Other Matters

PCB 97-9	<u>People of the State of Illinois v. C&S Recycling, Inc., Flood Brothers Disposal Company, Inc., William Flood, Individually and as Treasurer of C&S Recycling, and Brian Flood, Individually and as President of C&S Recycling</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	7-0 L-E
PCB 98-169	<u>Union Oil Company of California d/b/a Unocal v. Barge-Way Oil Company, Inc., Gertrude Kellogg, Joseph Kellogg, DuPage Enterprises, Inc. d/b/a Dunn</u>	7-0 L-E

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	<u>Rent-A-Car, Jan P. Skladany, and Carl J. Skladany</u> – The Board granted complainant’s motion for voluntary dismissal of this citizen’s land enforcement action involving a DuPage County facility.	
PCB 99-187	<u>Gina Pattermann v. Boughton Trucking and Materials, Inc.</u> – The Board granted respondent’s motion for discovery sanctions in part and denied the motion in part. The Board bared Mr. Greg Zak’s testimony at hearing, but denied respondent’s motion to bar any other witnesses, pleadings, or documents pertaining to the subject matter of Mr. Zak’s proposed testimony. The Board also denied respondent’s motion for attorney fees.	7-0 A&N-E
PCB 00-180	<u>People of the State of Illinois v. Jacobs Energy Corporation</u> – The Board granted respondent’s motion for modification of its July 10, 2003 order.	7-0 A&L-E
PCB 01-121	<u>Abed Nesheiwat and SAQ, Inc. (Tony’s Gas) v. IEPA</u> – The Board ordered petitioner to retain an attorney within 30 days, or this matter would be subject to dismissal.	7-0 UST Appeal
PCB 02-115	<u>People of the State of Illinois v. Blue Ridge Construction Corporation</u> – The Board granted complainant’s motion for partial summary judgment against respondent. The Board found that respondent violated Sections 9(a), 12(d), 21(a), (e), (p)(1) and (p)(2) of the Environmental Protection Act (415 ILCS 5/9(a), 9(a), 12(d), 21(a), (e), (p)(1) and (p)(2) 2002), 35 Ill. Adm. Code 201.141 of the Board’s regulations, and 40 C.F.R. 61.145(a) and (b)(1) of the National Emission Standards for Hazardous Air Pollutants. The Board directed the parties to hearing as expeditiously as practicable on the specific issue of penalty.	7-0 A&W-E
PCB 02-164	<u>Barbara and Ronald Stuart v. Franklin Fisher</u> – The Board denied respondent’s motion for site visit.	7-0 Citizens N-E
PCB 03-144	<u>Waste Management of Illinois, Inc. v. County Board of Kankakee County, Illinois</u> – The Board granted petitioner’s motion to dismiss this appeal of siting conditions for a facility located in Kankakee County, Illinois.	7-0 P-C-F-S-R
PCB 03-200	<u>Earl’s Marathon v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Cook County facility.	7-0 UST Appeal
PCB 03-205	<u>Jack’s 66 Service Station v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Madison County facility.	7-0 UST Appeal
PCB 03-207	<u>Silvestri Paving Company (September 11, 2002 to November 19, 2002) v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board	7-0 UST Appeal

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dismissed this matter because no underground storage tank appeal was filed on behalf of this Cook County facility.

PCB 03-212	<u>Wareco Service, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Knox County facility.	7-0 UST Appeal
PCB 03-213	<u>Winslow Boco (Strata Geologic Services, Inc.) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Stephenson County facility.	7-0 UST Appeal
PCB 03-221	<u>Low Transfer, Inc. and Marshall Lowe v. County Board of McHenry County, Illinois</u> – The Board granted petitioners’ motion to strike, but denied petitioners’ motion for sanctions. In addition, the Board struck the Village of Cary’s motion and the response to the motion to strike and request for sanctions. Finally, the Board granted in part and denied petitioners’ motion <i>in limine</i> .	7-0 P-C-F-S-R
PCB 03-237	<u>Estate of Olivia Tyberendt v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Clinton County facility.	7-0 UST Appeal
PCB 04-13	<u>People of the State of Illinois v. Intermatic Incorporated</u> – The Board accepted for hearing this air enforcement action involving a McHenry County facility.	7-0 A-E
PCB 04-14	<u>McDonald’s Corporation v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	7-0 UST Appeal
PCB 04-15	<u>People of the State of Illinois v. Atkinson Grain & Fertilizer, Inc.</u> – The Board accepted for hearing this water enforcement action involving a Henry County facility.	7-0 W-E

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Chicago, Illinois

Rulemakings

R03-10	<u>In the Matter of: Revision of the Board’s Procedural Rules: 35 Ill. Adm. Code 101-130</u> – The Board on its own motion dismissed this docket as unnecessary. In a separate order, the Board opened a new docket, R04-8, to efficiently meet these same objectives and to adopt additional procedural rule amendments, principally those made necessary by more recent legislation. (see below)	7-0 R, Proc. Rules
R04-8	<u>In the Matter of: Amendments to the Board’s Procedural Rules: 35 Ill. Adm. Code 101-130</u> – The Board on its own motion opened a new docket to propose amendments to its procedural rules. Among other things, the amendments will	7-0 R, Proc. Rules

Environmental Register – August 2003

allow electronic filing in all Board proceedings through the Board's new Clerk's Office On-Line or "COOL," and reflect recent statutory changes. A specific proposal will be issued in the near future.

R04-9	<p><u>In the Matter of: Amendments to the Board's Administrative Rules: 2 Ill. Adm. Code 2175</u> – The Board on its own motion opened a new docket to propose amendments to its administrative rules at Part 2175 of Title 2 of the Illinois Administrative Code. The administrative rules, last amended in 1996, describe the Board's organization, the types of Board proceedings, as well as how to pay filing and photocopy fees, and how the public may access information. Amendments to these rules are needed primarily (1) to reflect recent statutory changes affecting the Board; (2) to accommodate filing fee payment when filing electronically is allowed through the Board's new Clerk's Office On-Line or "COOL"; and (3) to update information about the Board's proceedings and offices. A specific proposal will be issued in the near future.</p>	7-0 R, Proc. Rules
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Administrative Citations

AC 02-4	<p><u>IEPA v. Mound City</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Pulaski County facility, the Board found respondent violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2002)) and ordered respondent to pay a civil penalty of \$3,000. The Board also granted the parties' joint motions to dismiss the alleged violation of Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2002)) and to dismiss respondent's petition for review.</p>	7-0
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Motions and Other Matters

PCB 97-69	<p><u>People of the State of Illinois v. Economy Plating, Inc.</u> – The Board granted complainant's motion for summary judgment. The Board found respondent in violation of Sections 415 ILCS 5/9(a), (b), and 9.1(d)(1) (2002) of the Environmental Protection Act, and 35 Ill. Adm. Code 201.142, 201.143, 201.302, 201.144, 254.102(c), and 254.402 of the Board's regulations. The Board directed this matter to hearing as expeditiously as practicable on the specific issues of the appropriate penalty amount, costs, and attorney fees.</p>	7-0 A-E
PCB 02-77	<p><u>People of the State of Illinois v. Millenium Recycling and Solid Waste Consultants, Inc.</u> – The Board ordered respondent to show cause why a default order in this case should not be entered. Respondent has 14 days, or until September 4, 2003, to respond to this order.</p>	7-0 L-E
PCB 03-9	<p><u>Piasa Motor Fuels, Inc. v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Madison County facility.</p>	7-0 UST Appeal
PCB 03-34	<p><u>Barry Amoco, Inc. v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Pike County facility.</p>	7-0 UST Appeal
PCB 03-36	<p><u>D&R Service v. IEPA</u> - The Board granted petitioner's motion for voluntary</p>	7-0

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	dismissal of this underground storage tank appeal involving a Randolph County facility.	UST Appeal
PCB 03-37	<u>Illinois Ayers Oil Company v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Knox County facility.	7-0 UST Appeal
PCB 03-41	<u>Newton Community High School v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Jasper County facility.	7-0 UST Appeal
PCB 03-44	<u>Pioneer Oil Company v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Christian County facility.	7-0 UST Appeal
PCB 03-46	<u>Mahr's Sales & Service v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Fulton County facility.	7-0 UST Appeal
PCB 03-48	<u>Mueller Shell, Inc. v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a St. Clair County facility.	7-0 UST Appeal
PCB 03-50	<u>East Side Shell v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Fulton County facility.	7-0 UST Appeal
PCB 03-51	<u>People of the State of Illinois v. Draw Drape Cleaners, Inc.</u> – The Board granted complainant's motion for partial summary judgment. The Board directed this matter to hearing as expeditiously as practicable on the remainder of the contested counts of the complaint, appropriate penalty amount, and remedy.	7-0 A-E
PCB 03-60	<u>V.W. Bowman Oil Company v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Union County facility.	7-0 UST Appeal
PCB 03-61 PCB 03-62 (Cons.)	<u>Brock Oil Company (Normal) and Brock Company (Hoopeston) v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of these underground storage tank appeals involving a McLean County facility.	7-0 UST Appeal
PCB 03-67	<u>Maryville Voice Newspaper Company v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Madison County facility.	7-0 UST Appeal
PCB 03-72	<u>Wabash Valley Service v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Gallatin County facility.	7-0 UST Appeal

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PCB 03-89	<u>Wabash Valley Service v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving an Edwards County facility.	7-0 UST Appeal
PCB 03-92	<u>Ralph Johnson v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Christian County facility.	7-0 UST Appeal
PCB 03-93	<u>Dean Schneidewind v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a St. Clair County facility.	7-0 UST Appeal
PCB 03-96	<u>Martin E. & Kathy L. Geber v. Carri Scharf Trucking and Materials, Carri Scharf Materials Company, and East Side Materials, L.L.C.</u> – The Board denied respondent East Side Materials, L.L.C.'s motion to dismiss the amended complaint. Additionally, it struck two allegations of the amended complaint as frivolous and accepted the remaining allegations for hearing.	7-0 N-E
PCB 03-99	<u>Sather Enterprises, Ltd. v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Dewitt County facility.	7-0 UST Appeal
PCB 03-112	<u>2F, Inc. v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Williamson County facility.	7-0 UST Appeal
PCB 03-114	<u>Village of Karnak v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Pulaski County facility.	7-0 UST Appeal
PCB 03-132	<u>Dickey Oil Company v. IEPA</u> - The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Clay County facility.	7-0 UST Appeal
PCB 03-206	<u>J&C Central, Inc. v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this DuPage County facility.	7-0 UST Appeal
PCB 03-216	<u>Bulk Petroleum Corporation v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Cook County facility.	7-0 UST Appeal

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PCB 03-217 PCB 03-188	<u>Prime Time Citgo, Inc. and Alphonsus Olieh v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Kane County facility and granted the motion to consolidate this matter with PCB 03-188.	7-0 UST Appeal
PCB 03-235	<u>United Disposal of Bradley, Inc. and Municipal Trust & Savings Bank, as Trustee Under Trust 0799 v. IEPA</u> – The Board granted the petitioners’ motion to strike only as to the Kankakee County Health Department letter and any references to that document contained in Ms. Wheeler’s letter. The Board denied the petitioners’ motion to strike the rest of Ms. Wheeler’s public comment.	7-0 P-A, Land
PCB 04-16	<u>People of the State of Illinois v. Packaging Personified, Inc.</u> – The Board accepted for hearing this air enforcement action involving a DuPage County facility.	7-0 A-E
PCB 04-17	<u>Koch Pipeline Company L.P.(Hartford Terminal) v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Madison County facility.	7-0 P-A, Air 90-Day Ext.
PCB 04-18	<u>Knapp Oil Company 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 Massac County facility.	7-0 UST Appeal 90-Day Ext.
PCB 04-20	<u>R.W. Sheridan Oil Company, Inc. 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 McLean County facility.	7-0 UST Appeal 90-Day Ext.

New Cases

August 7, 2003 Board Meeting

04-012 Teresa L. Shepro, as Trustee of the Justice W. Shepro Trust, and Teresa L. Shepro and Frank Wiemerslage, as beneficiaries under Trust No. 898, of the Chicago Trust Company v. Newby Oil Company, David E. Tripp and Janice Tripp – The Board held for a later duplicative/frivolous determination this citizen’s noise enforcement action involving a DeKalb County facility.

04-013 People of the State of Illinois v. Intermatic Incorporated – The Board accepted for hearing this air enforcement action involving a McHenry County facility.

04-014 McDonald’s Corporation v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.

04-015 People of the State of Illinois v. Atkinson Grain & Fertilizer, Inc. – The Board accepted for hearing this water enforcement action involving a Henry County facility.

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AC 04-001 County of Montgomery v. Luie and Mary Pease – The Board accepted an administrative citation against these Montgomery County respondents.

AC 04-002 County of Sangamon v. William McGlauchlen – The Board accepted an administrative citation against this Sangamon County respondent.

AC 04-003 County of Sangamon v. Louis Rutherford – The Board accepted an administrative citation against this Sangamon County respondent.

August 21, 2003 Board Meeting

04-016 People of the State of Illinois v. Packaging Personified, Inc. – The Board accepted for hearing this air enforcement action involving a DuPage County facility.

04-017 Koch Pipeline Company L.P.(Hartford Terminal) v. IEPA – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Madison County facility.

04-018 Knapp Oil Company 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 Massac County facility.

04-019 Paul and Donna Fredrickson v. Jeff Grelyak – The Board held for a later duplicative/frivolous determination this citizen’s air and noise enforcement action involving a McHenry County facility.

04-020 R.W. Sheridan Oil Company, Inc. 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 McLean County facility.

AC 04-004 IEPA v. Edward Sapp – The Board accepted an administrative citation against this Logan County respondent.

AC 04-005 IEPA v. Jerry Summers – The Board accepted an administrative citation against this Fayette County respondent.

AC 04-006 IEPA v. Mary Lou and H. Frank Record – The Board accepted an administrative citation against these Fulton County respondents.

Calendar

<p>9/4/03 11:00AM</p>	<p>Illinois Pollution Control Board Meeting</p>		<p>Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph St./Chicago and 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield</p>
<p>9/08/03 8:00AM</p>	<p>PCB 03-236</p>	<p>Citizens Against Landfill Expansion (CALE) v. American Disposal Services of Illinois, Inc. and Livingston County Board</p>	<p>Pontiac City Hall Council Chambers 115 W. Howard Street Pontiac</p>
<p>9/9/03 8:00AM</p>	<p>PCB 03-236</p>	<p>Citizens Against Landfill Expansion (CALE) v. American Disposal Services of Illinois, Inc. and Livingston County Board</p>	<p>Pontiac City Hall Council Chambers 115 W. Howard Street Pontiac</p>
<p>9/10/03 9:00AM</p>	<p>PCB 03-236</p>	<p>Citizens Against Landfill Expansion (CALE) v. American Disposal Services of Illinois, Inc. and Livingston County Board</p>	<p>Pontiac City Hall Council Chambers 115 W. Howard Street Pontiac</p>

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9/11/03 8:00AM	PCB 03-236	Citizens Against Landfill Expansion (CALE) v. American Disposal Services of Illinois, Inc. and Livingston County Board	Pontiac City Hall Council Chambers 115 W. Howard Street Pontiac
9/15/03 10:00AM	PCB 02-177	People of the State of Illinois v. John Prior d/b/a Prior Oil Company and James Mezo d/b/a Mezo Oil Company	Washington County Courthouse Courtroom 2 101 East St. Louis Street Nashville, IL
9/16/03 9:00AM	PCB 02-177	People of the State of Illinois v. John Prior d/b/a Prior Oil Company and James Mezo d/b/a Mezo Oil Company	Washington County Courthouse Courtroom 2 101 East St. Louis Street Nashville, IL
9/16/03 10:30AM	AS 03-4	Petition of Argonne National Laboratory for an Adjusted Standard from 35 Ill. Adm. Code 218.182	Wood Dale City Council Chambers 404 North Wood Dale Road Wood Dale
9/18/03 11:00AM	Illinois Pollution Control Board Meeting		Illinois Pollution Control Board James R. Thompson Center 100 W. Randolph Room 9-040 Chicago, Illinois
9/23/03 10:00PM	PCB 97-2	People of the State of Illinois v. Jersey Sanitation Corporation	Jerseyville City Council Chambers 115 E. Prairie Jerseyville
9/24/2003 10:00PM	PCB 97-2	People of the State of Illinois v. Jersey Sanitation Corporation	Jerseyville City Council Chambers 115 E. Prairie Jerseyville
10/2/03 11:00AM	Illinois Pollution Control Board Meeting		Illinois Pollution Control Board Hearing Room, 1244N 1021 N. Grand Avenue East Springfield
10/8/03 9:00AM	PCB 02-79	People of the State of Illinois v. Walter F. Deemie d/b/a River City Demolition	Pollution Control Board Hearing Room 1021 North Grand Avenue East (north entrance) Springfield
10/16/2003 11:00AM	Illinois Pollution Control Board Meeting		Illinois Pollution Control Board James R. Thompson Center 100 W. Randolph Room 9-040 Chicago

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IEPA Class III: Special Resource Groundwater Designation

The Illinois Environmental Protection Agency (IEPA) requests listing Fogelpole Cave, which is a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Fogelpole Cave is located in the southern part of Monroe County, Illinois, approximately three miles north of Renault, Illinois. The DNP is located in the Renault 7.5 Minute Quadrangle, Section 7; Township 4 South, Range 9 West of the Third Principal Meridian. The area contributing groundwater to the DNP, is an irregularly shaped 5.13 square mile (3,283 acre) tract of land located to the north and west of the DNP.

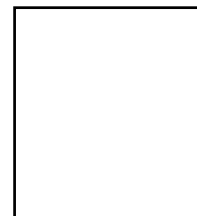
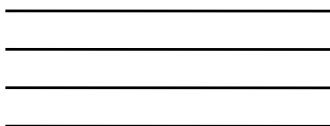
Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water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

The Groundwater Section, of the Bureau of Water, at the IEPA has completed the review required according to the criteria specified at Subsection 620.230(b)(1), and finds the petition to be technically adequate. In addition, the 45-day comment period has ended, and no comments were received.

The Illinois Pollution Control Board is an independent seven-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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Environmental Register Coordinator
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Environmental Register

May 2003 - Number 587

The Environmental Register is a Publication of the Illinois Pollution Control Board

Thomas E. Johnson, Chairman

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Letter from the Chairman

The National Drinking Water Alliance celebrated National Drinking Water Week from May 4 through May 10. The theme this year was "Protect Water for Life." Americans drink more than one billion glasses of tap water every day. As opposed to a large portion of the world, in the United States we have clean, safe drinking water. This is no accident of fortune. Water utilities treat nearly 34 billion gallons of water every day. Ensuring the maintenance of clean, drinkable water in Illinois is of primary importance to the Board. The Board is involved in maintaining the integrity of Illinois' drinking water in many important ways.



First, through its rulemaking process, the Board promulgates regulations designed to ensure that the water we drink in Illinois is safe. For example, last month the Board held two hearings in a rulemaking proceeding entitled In the Matter of: Amendments to 35 Ill. Adm. Code 602.105, 602.106, 602.108, and 602.115, R03-21. The rulemaking would allow the Illinois Environmental Protection Agency to continue issuing permits to Illinois public water supplies that do not meet the federal radionuclide standard for drinking water, but only if the supply is bound by order or agreement to a compliance schedule for meeting the federal standard. After considering the evidence submitted at the two hearings, the Board will determine whether to adopt the proposed rulemaking for the purpose of first notice. The Board also hears a variety of cases relating directly to drinking water issues, including appeals of IEPA final decisions as well as enforcement cases filed by the Illinois Attorney General's Office.

Through these various types of proceedings the Board is instrumental in maintaining the viability of drinking water in Illinois. However, ensuring safe drinking water is the responsibility of all Illinois citizens. Be involved. Attend local public hearings and read the annual consumer confidence report provided by your public water supplier. Working together, I am confident that the drinking water supply in Illinois will remain potable for years to come.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'T' followed by a horizontal line extending to the right.

Thomas E. Johnson, Chairman

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Federal Update

United States Environmental Protection Agency Approves Illinois' Emission Test Averaging Program Under the Clean Air Act

On May 9, 2003 (68 Fed. Reg. 24885) the United States Environmental Protection Agency (USEPA) published notice of its approval of revisions to the Illinois rules for averaging of emission tests. Illinois requested the revisions on October 9, 2001. The Illinois rules on averaging emissions can be found at 35 Ill. Adm. Code 283, "General Procedures for Emissions Tests Averaging" adopted by the Illinois Environmental Protection Agency at 24 Ill. Reg. 14428, effective September 11, 2000.

For sources with steady emission rates, the revisions provide for assessing compliance with mass emission limits on the basis of an average of three test runs. USEPA proposed to approve these revisions on April 15, 2002, at 67 FR 18115. The Environmental Law & Policy Center and others submitted a comment letter objecting to the proposed approval. The comments observed that averaging three test runs yields a less stringent compliance test than assessing compliance based on each test run individually. The commenters thus viewed the submittal as an inappropriate relaxation. The comments further objected that the State's rules provide for insufficient information on case-specific test protocol revisions to be able to judge how these revisions would affect test results. USEPA concluded that averaging of three mass measurement test runs is standard practice, and that Illinois is formalizing its pre-existing approach and not relaxing its compliance assessments. USEPA further found that Illinois has adopted an appropriate approach to differentiating between major and minor test method revisions and to addressing minor revisions.

This rule is effective on June 9, 2003.

Copies of the Illinois submittal and other information are available for inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air Programs Branch (AR-18J), Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604.

For further information contact John Summerhays, Environmental Scientist, United States Environmental Protection Agency, Region 5, Air Programs Branch (AR-18J), Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number (312) 886-6067, or email at summerhays.john@epa.gov.

United States Environmental Protection Agency Finds Attainment Reached for Ozone Air Quality Standard in St. Louis and Metro-East Former Ozone Non-Attainment Areas

On May 12, 2003 (68 Fed. Reg. 25442) the United States Environmental Protection Agency (USEPA) determined that the St. Louis ozone nonattainment area (St. Louis area) has attained the one-hour ozone National Ambient Air Quality Standard (NAAQS). The St. Louis ozone nonattainment area includes the Counties of Madison, Monroe, and St. Clair in Illinois and the Counties of Franklin, Jefferson, St. Charles, and St. Louis Counties and St. Louis City in Missouri. Based on the determination of attainment, USEPA also determined that certain ozone attainment demonstration requirements along with certain other ozone planning requirements of part D of title I of the Clean

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Air Act are not applicable for the St. Louis ozone nonattainment area. The USEPA approved a request from the State of Illinois, submitted on December 26, 2002, to redesignate the Metro-East St. Louis area (Madison, Monroe, and St. Clair Counties, Illinois) (the Illinois portion of the St. Louis ozone nonattainment area) to attainment of the one-hour ozone NAAQS. In approving this request, the USEPA also approved Illinois' plan for maintaining the one-hour ozone NAAQS through 2014 as a revision to the Illinois State Implementation Plan (SIP); and finding as adequate and approving the State's 2014 Motor Vehicle Emission Budgets (MVEBs) for Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_x), as contained in the maintenance plan, for transportation conformity purposes.

Additionally, USEPA approved an exemption from certain NO_x emission control requirements, as provided for in section 182(f) of the Clean Air Act, for the Metro-East St. Louis area. Because the St. Louis area is currently attaining the one-hour ozone NAAQS, the USEPA granted the Metro-East St. Louis area an exemption from No_x Reasonably Available Control Technology (NO_x RACT) requirements. However, all NO_x emission controls previously adopted by the State must continue to be implemented.

This rule is effective May 12, 2003.

Copies of the documents relevant to this rule are available for inspection at the offices of the Environmental Protection Agency, Region 5, Regulation Development Section, Air Programs Branch (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604. The reference file number is IL 216.

For further information contact Edward Doty, Environmental Scientist, U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR-18J), Air Programs Branch, Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, doty.edward@epa.gov

United States Environmental Protection Agency Approves Illinois' New Source Review Amendments Under the Clean Air Act

On May 13, 2003 (68 Fed. Reg. 25547) the United States Environmental Protection Agency (USEPA) issued a notice of a direct final rule, and an identical proposed rule, to approve a requested revision to the Illinois State Implementation Plan (SIP) submitted on August 31, 1998. This SIP revision involves approval of amendments to the new source review portion of the air permit rules, as adopted by the Board in Docket R98-10, Amendments to Major Stationary Source Construction and Modification Rules (New Source Review Rules) 35 Ill. Adm. Code 203 (May 7, 1998).

Illinois' rules for nonattainment New Source Review (NSR), found at 35 Ill. Adm. Code 203, are designed to ensure that the construction of a major new source of air pollution or a large increase of emissions at an existing source does not interfere with the attainment demonstration and does not delay timely achievement of the ambient air quality standards. The Board's R98-10 modifications to Part 203 revises provisions for major modifications to stationary sources to align more closely with the Clean Air Act (CAA).

There are four substantive requirements imposed upon owners or operators of major projects, as set forth in part 203. The first of these is the imposition of Lowest Achievable Emission Rate or for certain existing sources, Best Available Control Technology on emissions of the nonattainment pollutant from the major project. Appropriate limits are established on a case-by-case basis in the permitting process. The second requirement is that the emissions of the nonattainment pollutant from a major project must be accompanied by emission offsets from other sources in the nonattainment area. This assures that the total emissions of the nonattainment pollutant will remain within the levels accommodated by the State's attainment demonstration. The third requirement is compliance by other sources in the State that are under common ownership or control with the person proposing the project. The final requirement is an analysis of alternatives to the particular project, to determine whether the benefits of the project outweigh the environmental and social costs.

The amendments to 35 Ill. Adm. Code 203 are intended to better track the language of sections 182(c)(6), (7), and (8) of the CAA, and to make other revisions consistent with this effort. These changes deal with how one determines whether a proposed change at a source is a major modification. Tracking the language of these sections

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more closely allows Illinois to better accommodate USEPA guidance on interpretation of these provisions of the CAA. In particular, Illinois has amended part 203 so that it does not conflict with USEPA's "Notice of Proposed Rulemaking, Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR)," 61 FR 38249 (July 23, 1996). One topic addressed by USEPA in this 1996 proposed rulemaking was sections 182(c)(6), (7) and (8) of the CAA (61 FR 38298-38302). When the USEPA finalizes its NSR rulemaking establishing guidance on these sections of the CAA, Illinois' NSR rules will have to be reevaluated. The Illinois EPA has committed to undertaking such a review of Illinois' NSR rules upon final USEPA NSR rulemaking.

USEPA adopted its approval as a direct final rule because it views this action as noncontroversial and anticipates no adverse comments. If USEPA receives no written adverse comments, USEPA will take no further action on the proposed rule. If USEPA receives written adverse comment, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

Comments on this action must be received by June 12, 2003 and should be sent to: Pamela Blakley, Chief, Permits and Grants Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

For further information contact Steve Marquardt, AR-18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 353-3214, e-mail at: marquardt.steve@epa.gov

United States Environmental Protection Agency Approves Illinois' Submissions To Prohibit Mixing Zones for Bioaccumulative Chemicals of Concern Pursuant to the Clean Water Act and the Water Quality Guidance for the Great Lakes System

On May 16, 2003 (68 Fed. Reg. 26616) the United States Environmental Protection Agency (USEPA) issued its approval of the submissions to prohibit mixing zones for Bioaccumulative Chemicals of Concern (BCC) pursuant to section 118(c) of the Clean Water Act and the Water Quality Guidance for the Great Lakes System for the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin. USEPA approved the rules adopted by the Board in R97-25 Conforming Amendments for the Great Lakes Initiative (December 18, 1997).

In a November 13, 2000 rulemaking USEPA amended the Final Water Quality Guidance for the Great Lakes System to Prohibit Mixing Zones for Bioaccumulative Chemicals of Concern, (codified in appendix F, procedure 3.C of 40 CFR part 132). As amended, the Guidance requires that States adopt mixing zone provisions that prohibit mixing zones for new discharges of BCCs effective immediately upon adoption of the provision by the State, and to prohibit mixing zones for existing discharges of BCCs after November 15, 2010, except where a mixing zone is determined by the State to be necessary to support water conservation measures and overall load reductions of BCCs or where a mixing zone is determined by the State to be necessary for technical or economic reasons. Under the amended Guidance, States were given two years to adopt and submit revised water quality standards conforming with the amended Guidance.

Illinois' regulations for mixing zones for BCCs are found at 35 Ill. Adm. Code 302.530: "Supplemental Mixing Provisions for Bioaccumulative Chemicals of Concern." Illinois' supplemental mixing provisions for BCCs at 302.530 prohibit mixing zones for new discharges of BCCs commencing on or after December 24, 1997, prohibit mixing zones for existing discharges after March 23, 2007 except where a continued mixing zone is necessary for water conservation that will result in an overall reduction in BCC mass loadings to the Lake Michigan Basin or where a mixing zone is determined to be necessary based on technical or economic grounds. USEPA reviewed Illinois' rules at 302.503 and determined that they are consistent with the requirements of the amended Guidance.

USEPA has conducted its review of the States' submissions to prohibit mixing zones for BCCs in accordance with the requirements of section 118(c)(2) of the CWA and 40 CFR part 132. Section 118 requires that States adopt policies, standards and procedures that are "consistent with" the Guidance. USEPA has interpreted the statutory term "consistent with" to mean "as protective as" the corresponding requirements of the Guidance. Thus, the Guidance gives States the flexibility to adopt requirements that are not the same as the Guidance, provided that the State's provisions afford at least as stringent a level of environmental protection as that provided by the corresponding provision of the Guidance. In making its evaluation, USEPA considered the language of each State's

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standards, policies and procedures, as well as any additional information provided by the State clarifying how it interprets or will implement its provisions. In this proceeding, USEPA has reviewed the States' submissions to determine their consistency only with respect to appendix F, procedure 3.C of 40 CFR part 132.

USEPA's approval is effective on May 16, 2003.

For further information contact Mery Jackson-Willis, U.S. EPA, Region 5, 77 West Jackson Blvd., Chicago, IL 60604, or telephone at (312) 353-3717. Copies of materials considered by EPA in its decision are available for review by appointment at U.S. EPA Region 5, 77 West Jackson Blvd, Chicago, IL 60604.

United States Environmental Protection Agency Adopts National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing Under the Clean Air Act

On May 22, 2003 (68 Fed. Reg. 27913) the United States Environmental Protection Agency (USEPA) adopted national emission standards for hazardous air pollutants (NESHAP) for new and existing semiconductor manufacturing operations located at major sources of emissions of hazardous air pollutants (HAP).

The final standards implement section 112(d) of the Clean Air Act (CAA), which requires the Administrator of USEPA to regulate emissions of HAP listed in section 112(b) of the CAA. The intent of the standards is to protect public health and the environment by requiring new and existing major sources to control emissions to the level attainable by implementing the maximum achievable control technology (MACT).

The primary HAP that will be controlled with this action includes hydrochloric acid, hydrogen fluoride, methanol, glycol ethers, and xylene. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, eye, and mucous membranes; effects on the central nervous system; liver and kidney damage; and, possibly cancer. USEPA did not have the type of current detailed data on each of the facilities and the people living around the facilities covered by the final rule for this source category that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and the potential for resultant health effects. Therefore, USEPA does not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, and the final rule reduces emissions, subsequent exposures will be reduced.

This rule is effective May 22, 2003.

For further information contact Mr. John Schaefer, U.S. EPA, Office of Air Quality Planning and Standards, Emission Standards Division (C504-05), Research Triangle Park, NC 27711, telephone number (919) 541-0296, e-mail address schaefer.john@epa.gov

Pursuant to Section 9.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(b) (2002)), once adopted by the USEPA, NESHAP rules are applicable and enforceable under the Act without further action by the Board.

United States Environmental Protection Agency Proposes Amendments Under the Clean Air Act to Control Emissions of Air Pollution From Nonroad Diesel Engines and Fuel

On May 23, 2003 (68 Fed. Reg. 28327) the United States Environmental Protection Agency (USEPA) proposed new emission standards for nonroad diesel engines and sulfur reductions in nonroad diesel fuel that it expects to dramatically reduce emissions attributed to nonroad diesel engines. This comprehensive national program will regulate nonroad diesel engines and diesel fuel as a system.

USEPA's action is focused on engines, used primarily in construction, agricultural, and industrial applications, that are projected to continue to contribute large amounts of particulate matter (PM), nitrogen oxides (NO_x), and sulfur oxides (SO_x), all of which contribute to serious public health problems in the United States. These problems include premature mortality, aggravation of respiratory and cardiovascular disease, aggravation of existing asthma, acute respiratory symptoms, chronic bronchitis, and decreased lung function.

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New engine standards will begin to take effect in the 2008 model year. These standards are based on the use of advanced exhaust emission control devices. USEPA estimates PM reductions of 95 percent, NO_x reductions of 90 percent, and the virtual elimination of SO_x from nonroad engines meeting the new standards. Nonroad diesel fuel sulfur reductions of up to 99 percent from existing levels will provide significant health benefits as well as facilitate the introduction of high-efficiency catalytic exhaust emission control devices as these devices are damaged by sulfur. These fuel controls would begin in mid-2007. The nonroad proposal is largely based on USEPA's 2007 highway diesel program.

To better ensure the benefits of the standards are realized in-use and throughout the useful life of these engines, USEPA is also proposing new test procedures, including not-to-exceed requirements, and related certification requirements. The proposal also includes provisions to facilitate the transition to the new engine and fuel standards and to encourage the early introduction of clean technologies and clean nonroad diesel fuel. USEPA also developed provisions for both the proposed engine and fuel programs designed to address small business considerations.

USEPA expects substantial benefits to public health and welfare and the environment through significant reductions in emissions of NO_x and PM, as well as nonmethane hydrocarbons, carbon monoxide, SO_x and air toxics. USEPA projects that by 2030, this program would reduce annual emissions of NO_x and PM by 827,000 and 127,000 tons, respectively. These emission reductions would prevent 9,600 premature deaths, over 8,300 hospitalizations, and almost a million work days lost, and other quantifiable benefits every year. All told the benefits of this rule would be approximately \$81 billion annually by 2030. Costs for both the engine and fuel requirements would be many times less, at approximately \$1.5 billion annually.

Send written comments on this proposal by August 20, 2003. Comments may be submitted by mail to: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. A-2001-28.

USEPA will hold a public hearing on the proposal in Chicago on June 12, 2003 at the Hyatt Regency O'Hare, 9300 W. Bryn Mawr Avenue, Rosemont, IL 60018. Additional hearings will be held in New York on June 10, 2003, and in Los Angeles on June 17, 2003.

For further information contact USEPA, Office of Transportation and Air Quality, Assessment and Standards Division hotline, (734) 214-4636, e-mail at asdinfo@epa.gov, or Carol Connell, (734) 214-4349; connell.carol@epa.gov.

If any amendments to the Illinois air rules become necessary, the Board would expect the Illinois Environmental Protection Agency to propose amendments using the Clean Air Act "fast-track" procedures at Section 28.5 of the Environmental Protection Act (415 ILCS 5/28.5 (2002)).

Appellate Update

Fourth District Affirms Board In *ESG Watts, Inc. v. Illinois Environmental Protection Agency and Illinois Pollution Control Board*, Nos. 3-02-0329 and 4-02-0382 (cons.) (May 23, 2003) (PCB 01-63 and PCB 01-64 (cons.) and PCB 01-62)

In its May 23, 2003 22-page unpublished order under Supreme Court Rule 23 (155 Ill.2d R. 23), in *ESG Watts, Inc. v. Illinois Environmental Protection Agency and Illinois Pollution Control Board*, Nos. 3-02-0329 and 4-02-0382 (cons.) (May 23, 2003) the Fourth District Appellate Court affirmed the Board's interpretations of the Environmental Protection Act (Act) and the Board's nonhazardous waste landfill rules concerning issues of financial assurance for closure/post-closure care costs. *See* 415 ILCS 5/1 *et seq.* (2002) and 35 Ill. Adm Code 807.

For purposes of its review, the court consolidated appeals of two separate Board decisions issued April 4, 2002. These decisions related to Illinois Environmental Protection Agency (IEPA) determinations regarding the financial

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assurance obligations of ESG Watts, Inc. (Watts) for three landfills: the Sangamon Valley Landfill (whose ownership Watts transferred in February, 2002), the Taylor Ridge/Andalusia Landfill, and the Viola Landfill. Watts had previously supplied financial assurance for all three landfills in the form of one trust covering all three landfills. After transferring ownership of Sangamon Valley, Watts requested that the IEPA accept substitute financial assurance in lieu of the trust in the form of specific pollution liability insurance policies for the Sangamon Valley, Taylor/Ridge and Viola landfills, and to release excess financial assurance from the trust originally intended to cover any liabilities for Sangamon Valley. In PCB 01-62, the Board affirmed the IEPA's refusal to release financial assurance for any of the Watts facilities. In PCB 01-63 and 01-64 (cons.), the Board affirmed the IEPA's refusal to accept substitute financial assurance for the Taylor/Ridge and Viola landfills.

On review, the court addressed three primary issues of statutory and regulatory interpretation, all raised by Watts. (While the IEPA had attempted to raise other claims of error in the Board's decision, the court declined to address these issues, as the IEPA had not filed a cross appeal, citing People ex rel. Wray v. Brassard, 226 Ill. App. 3d 1007, 589 N.E.2d 1012 (1992).)

1) Approved Insurance Forms. The court upheld the Board's decision that the insurance policies proffered by Watts were improper because they were not on forms approved by the Illinois Department of Insurance, as Section 807.665(c) of the Board's rules require. 35 Ill. Adm. Code 807.665(c).

The issue of forms approved by another state's insurance department was not before the Board. Nevertheless, the court noted that the Board rule, last amended in 1985, does not reflect a 1996 amendment to Section 21.1(a.5) of the Act allowing financial assurance from insurers licensed by the insurance department of another state. 415 ILCS 5/21.1 (a.5) (2002).

2) Approval of Substitute Financial Assurance by Operation of Law. The court agreed with the Board that Watts was not a proper applicant when it proposed substitute financial assurance to the IEPA for Sangamon Valley Landfill. At the time of submittal, Watts had already sold the Sangamon Valley Landfill and was no longer the operator. The court affirmed the Board's decision that Watts' application was not approved by operation of law on the grounds that since the IEPA correctly refused to consider the application, its failure to take final action within 90 days did not result in approval of the request by operation of law under Section 39(a) of the Act. 415 ILCS 5/39(a) (2002).

In affirming the Board, the court applied the "clearly erroneous" standard of review to what it characterized as a "mixed question of law and fact", citing the Illinois Supreme Court decisions of City of Belvidere v. Illinois State Labor Relations Board, 181 Ill. Ed 191, 692 N. E. 2d 295 (1998) and AFM Messenger Services, Inc. v. Dept. of Employment Security, 198 Ill. Ed 380, 763 N. E. 2d 272 (2001). *But see* Illinois Environmental Protection Agency v. Jersey Sanitation, 784 N. E. 2d 867, 336 Ill. App. 3d 582 (4th Dist. 2003) in which this same court recently applied the "manifest weight of the evidence" standard to review and affirm the Board in a permit appeal. The court stated that the outcome would be no different if it reviewed the Board's decision *de novo*, the least deferential standard of review.

3) One Trust for All Three Landfills/Release of "Excess" Funds. A factual issue raised in these appeals was whether Watts had properly established one trust or three trusts. The court ruled that the Board's factual finding--that Watts had only one trust for all three landfills--was not against the manifest weight of the evidence. ESG Watts had attempted to create three separate trusts, one for each landfill, to be released sooner from its financial obligations. These attempts were found to be ineffective because the IEPA director had not executed the separate trust agreements, as required to modify the original single trust agreement. Regardless of the sale of the Sangamon Valley Landfill, the anticipated closure and post-closure care costs for the Taylor Ridge/Andalusia Landfill and the Viola Landfill (\$2.4 million) exceeded the amount of the single trust (\$1.4 million), *i.e.*, there simply were no "excess funds" as Watts had claimed. The court held that the Board's decision not to release any funds from the trust was "not against the manifest weight of the evidence or clearly erroneous."

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Appellants Withdraw Three Appeals Prior To Consideration By the Courts on the Merits:

Illinois Environmental Protection Agency v. Charles Goodwin and Illinois Pollution Control Board, No. 4-02-0939 (Fourth Dist. May 28, 2003) (AC 02-17);

Gladys and David Knox v. Turriss Coal Co. et al., No. 4-03-0129 (Fourth Dist. April 4, 2003) (PCB 00-140);
and

Lockformer Co. v. Illinois Environmental Protection Agency and Illinois Pollution Control Board, No. 1-02-1273 (First Dist. April 8, 2003)(PCB 02-86).

The person who initiates an appeal of a Board decision—the appellant—has the right to withdraw that appeal prior to a court's consideration of the merits. In the three above-captioned cases, the Board recently received summary orders of the courts dismissing these appeals at the appellant's request. Consequently, the Board's decision in each case stands.

Rule Update

Board Adopts Order Finding a Third Hearing Unnecessary Prior to First Notice in Proposed Amendments to Public Participation Rules in 35 Ill. Adm. Code 309 NPDES Permits and Permitting Procedures (R03-19)

On May 15, 2003, the Board adopted an order finding that a third hearing was unnecessary prior to its determination as to whether to proceed to first notice in Proposed Amendments to Public Participation Rules in 35 Ill. Adm. Code 309 NPDES Permits and Permitting Procedures (R03-19). The Board acted in response to a motion for a third hearing, filed on March 31, 2003 by the Illinois Environmental Regulatory Group (IERG), and supported by the Illinois Association of Wastewater Agencies (IAWA). The motion was opposed by the proponents of the rule change: the Environmental Law and Policy Center of the Midwest, the Illinois Chapter of the Sierra Club, and 225 citizen petitioners (the proponents of the rulemaking).

Both IERG and IAWA supported a third hearing so that the Board could hear testimony on proposed language changes suggested by the Illinois Environmental Protection Agency in its public comments. The Board stated that it would schedule a third hearing after the proposal is published in the *Illinois Register*, if the Board decides to move the rulemaking to first notice. The Board ordered the hearing officer in this rulemaking to establish a deadline for pre-first notice public comments so that the Board could consider additional public input on the proposal.

Copies of the Board's order may be obtained by calling Dorothy Gunn at 312-814-3620, or by downloading copies from the Board's Web site at www.ipcb.state.il.us.

For additional information contact Marie Tipsord at 312/814-4925; e-mail address tipsordm@ipcb.state.il.us

Board Actions

May 1, 2003

Springfield, Illinois

Administrative Citations

AC 03-22	<u>County of Macon v. Macon County Landfill 2 & 3, Kevin Shaw, and Jeffery London</u> – The Board found that these Macon County respondents violated Section 21(o)(5) and (12) of the Act (415 ILCS 5/21(o)(5), (12) (2002)) and ordered respondents to pay a civil penalty of \$1,000.	7-0
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Decisions

PCB 00-111	<u>People of the State of Illinois v. R. Frietsch Company, Inc.</u> – In this air	7-0
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	enforcement action concerning sites located in Peoria and Tazewell Counties, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2002)), accepted a final stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$10,000, and to cease and desist from further violations.	A-E
PCB 00-165	<u>People of the State of Illinois v. David Cohen d/b/a Dave's Auto Repair and Service</u> – In this land enforcement action concerning a Lake 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) (2002)), accepted a final stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$5,000, and to cease and desist from further violations.	7-0 L-E
PCB 00-184	<u>People of the State of Illinois v. M&R Wrecking, Ltd. and Roderick Enterprises, Inc.</u> – In this air enforcement action concerning a Cook 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) (2002)), accepted a final stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$25,000, and to cease and desist from further violations.	7-0 A-E
PCB 01-83	<u>People of the State of Illinois v. Indiana Harbor Belt Railroad Company and CAN International, Inc.</u> – In this land enforcement action concerning a Cook 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) (2002)), accepted a final stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$20,000, and to cease and desist from further violations.	7-0 L-E
PCB 02-21	<u>People of the State of Illinois v. J&F Hauling, Inc.</u> – The Board entered an order requiring respondent to reimburse the Office of the Attorney General \$3,967.50 for attorney fees. This order follows the Board's interim order of June 6, 2002, which found that this respondent had violated Sections 21(a), (d)(1) and (2), (e), and (p)(1), and 55(a) of the Environmental Protection Act (415 ILCS 5/21(a),(d)(1) and (2),(e),(p)(1) and 55(a) (2000)) and 35 Ill. Adm. Code 722.111, 808.121, and 812.101(a) and assessed a penalty of \$60,000.	7-0 L-E
PCB 02-208	<u>Brian Finley, Local 3315 of the American Federation of State, County, and Municipal Employees (Cook County Public Defenders Assn.) and Named Others v. Acme Barrel Company, Inc. a/k/a Acme Barrel Company a/k/a/ IFCO Systems Chicago, Inc. and Others</u> – In this air enforcement action concerning a Cook County facility, the Board accepted a final stipulation and settlement agreement, and ordered the respondents to comply with the terms of the settlement agreement on or before May 31, 2003.	7-0 Citizens A-E

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Motions and Other Matters

PCB 95-180	<u>People of the State of Illinois v. Archer Daniels Midland Company</u> – The Board granted complainant’s motion to voluntarily dismiss counts I and II in this air enforcement action involving a Macon County facility.	7-0 A-E
PCB 99-51	<u>People of the State of Illinois v. Archer Daniels Midland Company</u> – The Board granted complainant’s motion for voluntary dismissal of this air enforcement action involving a Macon County facility.	7-0 A-E
PCB 01-150	<u>People of the State of Illinois v. Marc Development Corporation and Silver Glen Estates Homeowners’ Association, 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 Kane County facility, the Board ordered publication of the required newspaper notice.	7-0 W-E
PCB 01-153	<u>City of Salem v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a Marion County facility.	7-0 P-A, Land
PCB 02-11	<u>Doris Glave v. Brent Harris, Patty Harris, and Winds Chant Kennel, Inc.; Village of Grayslake v. Winds Chant Kennel, Inc.</u> – The Board granted complainant’s motion to amend the complaint adding Glenn F. Glave as a complainant.	7-0
PCB 02-32 (Cons.)		N-E
PCB 02-56	<u>People of the State of Illinois v. Chiquita Processed Foods, L.L.C.</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 Peoria County facility, the Board ordered publication of the required newspaper notice.	7-0 W-E
PCB 03-102	<u>U.S. Department of Energy 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 DuPage County facility.	7-0 P-A, RCRA
PCB 03-104	<u>Waste Management of Illinois, Inc. v. County Board of Kane County, Illinois</u> – The Board denied respondent’s motion for leave to file a petition to enforce ordinance and host community benefit agreement.	6-0 Karpel abstained P-C-F-S-R
PCB 03-107	<u>Willaredt Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Macon County facility.	7-0 UST Appeal
PCB 03-109	<u>Fred Sierzega 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 Cook County facility.	7-0 UST Appeal

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PCB 03-113	<u>Clark Oil Station #1655 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 Vermilion County facility.	7-0 UST Appeal
PCB 03-114	<u>Village of Karnak v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Pulaski County facility.	7-0 UST Appeal
PCB 03-125	<u>City of Kankakee v. County of Kankakee and County Board of Kankakee;</u>	7-0
PCB 03-133	<u>Merlin Karlock v. County of Kankakee and Kankakee County Board; Michael Watson v. County of Kankakee and Kankakee County Board; Keith Runyon v.</u>	P-C-F-S-R
PCB 03-134	<u>County of Kankakee and Kankakee County Board</u> – The Board denied the motion to overrule the hearing officer and affirmed the hearing officer’s rulings	
PCB 03-135	of April 24, 2003	
PCB 03-191	<u>People of the State of Illinois v. Community Landfill Company, Inc. and the City of Morris</u> – The Board accepted for hearing this land enforcement involving a Grundy County facility.	7-0 L-E
PCB 03-192	<u>Owens Oil Company (January 1, 1998 – June 30, 1998) 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 Greene County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-193	<u>Jim’s Shell & Marine 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 Macoupin County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-194	<u>Owens Oil Company (March 1, 1997 – December 31, 1997) 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 Greene County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-195	<u>Owens Oil Company (May 1, 1999 – December 31, 1999) 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 Greene County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-196	<u>Owens Oil Company (December 1, 1999 – September 30, 2000) 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 Greene County facility.	7-0 UST Appeal 90-Day Ext.

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PCB 03-197	<u>Owens Oil Company (June 1, 1998 – May 31, 1999) 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 Greene County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-198	<u>Ted Harrison Oil Co., Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Cass County facility.	7-0 P-A, Land
PCB 03-199	<u>Thompson Service 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 McLean County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-200	<u>Earl’s Marathon 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 Cook County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-201	<u>Howard Warsaw 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 Tazewell County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-202	<u>Consolidated Grain and Barge Co. (Cyclone with Baghouse) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Consolidated Grain and Barge located in Bureau County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	7-0 T-C
PCB 03-203	<u>Owens Oil Company (March 1, 1997 – May 31, 1997) 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 Greene County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-204	<u>Warren’s Service 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 Mercer County facility.	7-0 UST Appeal 90-Day Ext.

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PCB 03-205	<u>Jack's 66 Service Station 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 Madison County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-206	<u>J&C Central, Inc. 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 DuPage County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-207	<u>Silvestri Paving Company (September 11, 2002 – November 19, 2002) 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 Cook County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-208	<u>Stanford Property 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 Clay County facility.	7-0 UST Appeal 90-day Ext.
PCB 03-209	<u>Silvestri Paving Company (September 11, 2002 – November 20, 2002) 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 Cook County facility.	7-0 UST Appeal 90-Day Ext.

**May 15, 2003
Chicago, Illinois**

Rulemakings

R03-19	<u>In the Matter of: Proposed Amendments to: Public Participation Rules in 35 Ill. Adm. Code Part 309 NPDES Permits and Permitting Procedures</u> – The Board granted the Illinois Environmental Regulatory Group's motion for leave to file a reply and the Illinois Association of Wastewater Agencies' motion for leave to file a response and reply instanter. The Board denied the motion for a third hearing and directed the hearing officer to issue an order specifying the deadline for closing the pre-first notice comment period. If the Board proceeds to first notice, at least one additional hearing will be held prior to moving to second notice with the proposed rule.	6-1 Johnson dissented R, Water
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Adjusted Standards

AS 00-5	<u>In the Matter of: Petition of The Ensign Bickford Company for an Adjusted Standard from 35 Ill. Adm. Code 237.103</u> – The Board denied petitioner’s motion to reconsider the Board’s March 20, 2003 opinion and order.	7-0 Air
AS 03-3	<u>In the Matter of: Argonne National Laboratory for an Adjusted Standard from 35 Ill. Adm. Code 218.182</u> – The Board dismissed this DuPage County facility’s petition for an adjusted standard from the Board’s air pollution control regulations for failure to timely publish notice of its request for an adjusted standard.	7-0 Air

Administrative Citations

AC 02-61	<u>IEPA v. Steve Koester (Champaign/ S&K Fence Company)</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Champaign County facility, the Board found respondent violated Section 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(3) (2002)) and ordered respondents to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motions to name S&K Fence Company as the sole respondent, to dismiss the alleged violation of Section 21(p)(1) and (p)(7) of the Act. 415 ILCS 5/21(p)(1), (p)(7) (2002), and to dismiss respondent’ petition for review.	7-0
AC 03-23	<u>County of Montgomery v. Robert Scott</u> – The Board found that this Montgomery County respondent violated Section 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2002)), and ordered respondent to pay a civil penalty of \$4,500.	6-1 Girard dissented
AC 03-24	<u>IEPA v. Arrowhead Tree Removal, Inc.</u> – The Board found that this Jersey County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2002)), and ordered respondent to pay a civil penalty of \$1,500.	7-0
AC 03-25	<u>IEPA v. Milton Hampton</u> – The Board found that this White County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2002)), and ordered respondent to pay a civil penalty of \$1,500.	7-0
AC 03-26	<u>IEPA v. Larry Beam</u> – The Board found that this Henry County respondent violated Section 21(p)(1), (p)(2), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(2), (p)(7) (2002)), and ordered respondent to pay a civil penalty of \$9,000.	6-1 Girard dissented
AC 03-27	<u>IEPA v. Vince Harvey</u> – The Board accepted for hearing this petition for review of an administrative citation against this Henry County respondent.	7-0

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Motions and Other Matters

PCB 97-103	<u>People of the State of Illinois v. State Oil Company, William Anest an individual f/d/b/a S&S Petroleum Products, Charles Abraham an individual, Josephine Abraham an individual, and Millstream Service, Inc.</u> – The Board denied complainant’s motion to modify the Board’s March 20, 2003. But, the Board granted respondents’ motions for stay of the order regarding payment of a penalty pending outcome of their appeal in the Second District Appellate Court.	7-0 L&W-E
PCB 00-138	<u>Granite City Sheet Metal v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a Madison County facility.	7-0 P-A, Land
PCB 00-141	<u>E.G. Vogt Oil Company, Inc. v. IEPA</u> – The Board granted petitioner’s motion for continuance of stay for an additional 60 days, until July 14, 2003.	7-0 UST Appeal
PCB 02-77	<u>People of the State of Illinois v. Millenium Recycling & Solid Waste Consultants, Inc., Sherri Clementi individually and as President of Millenium Recycling & Solid Waste Consultants, Inc.</u> – The Board granted complainant’s motion for leave to file an amended complaint.	7-0 L-E
PCB 02-129	<u>Sports Aircraft, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a DuPage County facility.	7-0 UST Appeal
PCB 03-96	<u>Martin E. & Kathy L. Geber v. Clayton Moushon and Carri Scharf Trucking and Materials</u> – The Board granted the motion of respondent Clayton Moushon, dismissing him from this case, but denied the motion to dismiss of respondent Carri Scharf Trucking and Materials. The Board also granted in part and denied in part the Gebers’ motion for leave to file an amended complaint. Specifically, the Board granted the Gebers’ motion to file an amended complaint to add Carri Scharf Materials Company and East Side Materials, L.L.C. as respondents. However, the Board denied the motion to add Farmdale Valley Dev. Inc. and the United States Army Corps of Engineers as respondents.	7-0 Citizens N-E
PCB 03-112	<u>2F, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Williamson County facility.	7-0 UST Appeal
PCB 03-116	<u>William Breuer v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Sangamon County facility.	7-0 UST Appeal
PCB 03-118	<u>Dalee Oil Company (July 1, 2001 – September 30, 2001) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility and granted the motions to consolidate this matter with PCB 03-119 and PCB 03-150.	7-0 UST Appeal

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PCB 03-119	<u>Dalee Oil Company (September 1, 2001 – November 30, 2001) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility and granted the motions to consolidate this matter with PCB 03-118 and PCB 03-150.	7-0 UST Appeal
PCB 03-146	<u>North Shore Sanitary District v. IEPA</u> – The Board granted respondent’s motion to withdraw its motion to reconsider the Boards March 20, 2003 order. The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a Lake County facility.	7-0 P-A, Air
PCB 03-150	<u>Dalee Oil Company (January 1, 2001 – August 31, 2002)</u> – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility and granted the motions to consolidate this matter with PCB 03-118 and PCB 03-119.	7-0 UST Appeal
PCB 03-212	<u>Wareco Services, Inc. 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 Knox County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-213	<u>Winslow Boco 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 Stephenson County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-214	<u>Illinois Ayers Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cass County facility.	7-0 UST Appeal
PCB 03-215	<u>People of the State of Illinois v. Huck Store Fixture Company, Inc.</u> – The Board accepted for hearing this air enforcement action involving an Adams County facility.	7-0 A-E
PCB 03-216	<u>Bulk Petroleum Corporation 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 Cook County facility.	7-0 UST Appeal 90-Day Ext.

New Cases

May 1, 2003 Board Meeting

03-191 People of the State of Illinois v. Community Landfill Company, Inc. and the City of Morris – The Board accepted for hearing this land enforcement involving a Grundy County facility.

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03-192 Owens Oil Company (January 1, 1998 – June 30, 1998) 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 Greene County facility.

03-193 Jim's Shell & Marine 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 Macoupin County facility.

03-194 Owens Oil Company (March 1, 1997 – December 31, 1997) 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 Greene County facility.

03-195 Owens Oil Company (May 1, 1999 – December 31, 1999) 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 Greene County facility.

03-196 Owens Oil Company (December 1, 1999 – September 30, 2000) 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 Greene County facility.

03-197 Owens Oil Company (June 1, 1998 – May 31, 1999) 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 Greene County facility.

03-198 Ted Harrison Oil Co., Inc. v. IEPA – The Board accepted for hearing this permit appeal involving a Cass County facility.

03-199 Thompson Service 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 McLean County facility.

03-200 Earl's Marathon 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 Cook County facility.

03-201 Howard Warsaw 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 Tazewell County facility.

03-202 Consolidated Grain and Barge Co. (Cyclone with Baghouse) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Consolidated Grain and Barge located in Bureau County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).

03-203 Owens Oil Company (March 1, 1997 – May 31, 1997) 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 Greene County facility.

03-204 Warren's Service 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 Mercer County facility.

03-205 Jack's 66 Service Station 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 Madison County facility.

03-206 J&C Central, Inc. 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 DuPage County facility.

03-207 Silvestri Paving Company (September 11, 2002 – November 19, 2002) 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 Cook County facility.

03-208 Stanford Property 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 Clay County facility.

03-209 Silvestri Paving Company (September 11, 2002 – November 20, 2002) 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 Cook County facility.

May 15, 2003 Board Meeting

03-210 Solid Waste Agency of Northern Cook County v. City of Des Plaines, Illinois and Disposal Management Systems, Inc. – No action taken.

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03-211 Mark and Cynthia Heywood v. Dan and Darleen Sheehan – The Board held for a later duplicative/frivolous determination this citizen's noise enforcement action involving a Cook County facility.

03-212 Wareco Services, Inc. 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 Knox County facility.

03-213 Winslow Boco 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 Stephenson County facility.

03-214 Illinois Ayers Oil Company v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Cass County facility.

03-215 People of the State of Illinois v. Huck Store Fixture Company, Inc. – The Board accepted for hearing this air enforcement action involving an Adams County facility.

03-216 Bulk Petroleum Corporation 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 Cook County facility.

AC 03-028 IEPA v. James L. Quirin and C. Grantham Company – The Board accepted an administrative citation against these St. Clair County respondents.

AC 03-029 IEPA v. Robert A. Power, Jr. and Susan L. Power – The Board accepted an administrative citation against these Sangamon County respondents.

Calendar

6/3/03 1:00 PM	AC 03-011	City of Chicago Department of Environment v. City Wide Disposal Inc.	The James R. Thompson Center, Room 11-512 West Randolph Street Chicago
6/3/03 11:00 AM	PCB 01-167	People of the State of Illinois v. ESG Watts, Inc. (Taylor Ridge Landfill)	County Building 3rd Floor Conference Room 1504 Third Avenue Rock Island, IL
6/4/03 9:00 AM	PCB 01-167	People of the State of Illinois v. ESG Watts, Inc. (Taylor Ridge Landfill)	County Building 3rd Floor Conference Room 1504 Third Avenue Rock Island, IL
6/5/03 11:00 AM		<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>	Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 West Randolph St./Chicago Hearing Room 403 600 South Second St./Springfield
6/10/03 9:00 AM	PCB 02-162	People of the State of Illinois v. Fox Valley Dry Wall, Inc.	Kane County Courthouse, Room 140 100 South Third Street Geneva
6/19/03 11:00 AM		<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>	James R. Thompson Center Conference Room 9-040 100 West Randolph Street Chicago
7/2/03 9:00 AM	PCB 03-002	Todd's Service Station v. IEPA	Illinois Pollution Control Board, Room 403 600 S. Second Street Springfield, IL

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7/10/03 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield
7/15/03 10:00 AM	PCB 03-002	Todd's Service Station v. IEPA	Hearing in City Hall Council Chambers 400 Margaret Street Pekin, IL
7/24/03 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		James R. Thompson Center Conference Room 9-040 100 West Randolph Street Chicago

Notice

The Illinois Environmental Protection Agency (IEPA) proposes to list Fogelpole Cave, which is a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Fogelpole Cave is located in the southern part of Monroe County, Illinois, approximately three miles north of Renault, Illinois. The area contributing groundwater to the DNP, is an irregularly shaped 5.13 square mile (3,283 acre) tract of land located to the north and west of the DNP. On April 4, 2003, the Illinois Nature Preserves Commission submitted a petition to designate Fogelpole Cave as Class III: Special Resource Groundwater. This is the second petition of this type since the Pollution Control Board adopted the groundwater quality standards regulation in 1991.

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; for groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the IEPA. The IEPA is required to review a written request to list a DNP, and upon confirmation of the technical adequacy, publish the listing of the DNP 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 at Subsection 620.230(b)(1), and finds the petition to be technically adequate.

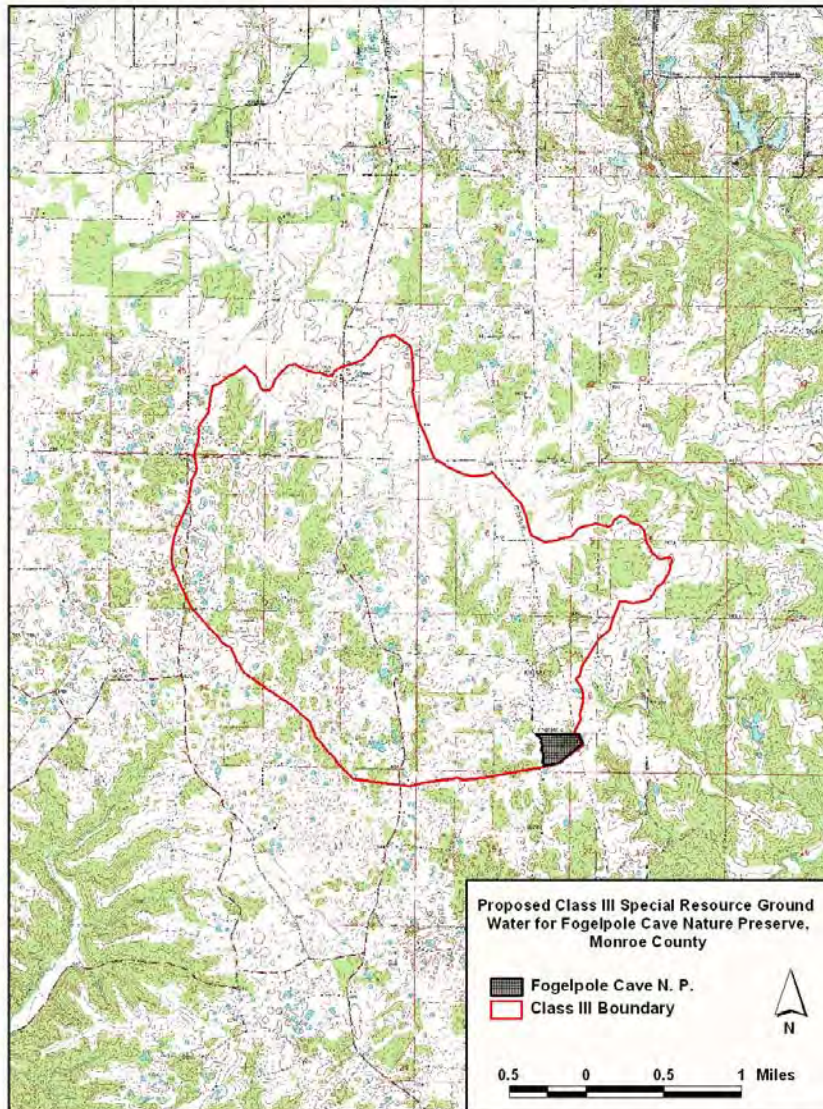
Questions regarding the proposal and requests for hard copies of the petition should be directed to:

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

The Illinois EPA will consider public comments received on or before July 25, 2003.

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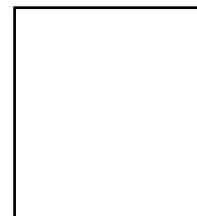
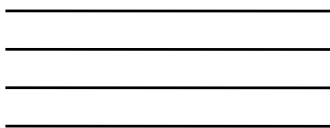
Exhibit 1: Map of proposed Fogelpole Cave Nature Preserve Class III Special Resource Groundwater area projected on a USGS Topographic map. Map is based on the delineation of the groundwater system by Aley, Moss and Aley (2000)



The Illinois Pollution Control Board is an independent seven-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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Illinois Pollution Control Board
Environmental Register Coordinator
600 South Second Street, Suite 402
Springfield, Illinois 62704