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STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

May 6, 2011

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

**NOTICE OF HEARING**

DATE, TIME, AND LOCATION:

WEDNESDAY, JULY 27, 2011

9:00 AM  
Conference Room 212  
Fayette County Courthouse  
221 S. 7th St.  
Vandalia, Illinois

PURPOSE OF HEARING: Merit and Economic  
ATTENDING BOARD MEMBER: Andrea S. Moore  
HEARING OFFICER: Timothy J. Fox

**HEARING OFFICER ORDER**

On April 21, 2011, the Board received from the Illinois Environmental Protection Agency (Agency) a rulemaking proposal to establish a maximum setback zone for six community water supply (CWS) wells owned by Fayette Water Company (FWC) in Fayette County. In an order dated May 5, 2011, the Board accepted the proposal for hearing.

Under Section 28(a) of the Environmental Protection Act (Act), the Board will conduct a hearing in order to allow the Agency and any other interested participants the opportunity to present testimony on the merits and economic impact of the proposal. *See* 415 ILCS 5/28(a) (2008). At hearing, all persons wishing to testify will be sworn in and subject to questioning.

Section 14.3(d) of the Act, pursuant to which the Agency filed its proposal, provides in pertinent part that "[r]ulemaking proceedings initiated by the Agency under this subsection shall be conducted by the Board pursuant to Title VII of this Act, except the subsection (b) of Section 27 shall not apply." 415 ILCS 5/14.3(d) (2008). Section 27(b) of the Act requires the Board to request that the Department of Commerce and Economic Opportunity (DCEO) conduct an economic impact study (EcIS) of proposed substantive rules and to make DCEO's response available at least 20 days before holding a hearing on the proposal's economic impact. 415 ILCS

In compliance with the Americans with Disabilities Act and other applicable federal and State laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact John Theriault, Assistant Clerk of the Board, at 100 West Randolph St., Suite 11-500, Chicago, Illinois 60601, at telephone number 312/814-6931, fax number 312/814-3669, or TDD number 312/814-6032, five days prior to the hearing.

5/27(b) (2008). Accordingly, the Board will not request that DCEO conduct an EcIS of the Agency's proposal.

### **Pre-Filing Deadlines**

Participants who intend to testify at hearing are urged to pre-file their testimony. Pre-filed testimony must be served on all persons on the Service List at the time of service. *See* 35 Ill. Adm. Code 102.424(c). Before filing pre-filed testimony or any other document with the Clerk, please check with the Clerk to obtain the most recent version of the Service List.

Pre-filed testimony and any related exhibits for the hearing must be filed with the Board's Clerk no later than Wednesday, June 8, 2011. In order to expedite the hearing, participants are directed to pre-file questions based on the Agency's pre-filed testimony no later than Wednesday, June 29, 2011. The Board's staff may also submit questions based on the Agency's pre-filed testimony in the form of a hearing office order. The Agency is directed to pre-file written answers to pre-filed questions no later than Wednesday, July 20, 2011.

The "mailbox rule" at 35 Ill. Adm. Code 101.300(b)(2) does not apply to the filing of any of this pre-filed testimony, questions, or answers, and the Board's Clerk must receive these documents before the close of business on the specified deadlines. However, documents may be filed electronically through the Clerk's Office On-Line (COOL) from the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). 35 Ill. Adm. Code 101.302(d). Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

### **Order of Hearing**

The hearing officer intends to begin the hearing with the Agency's presentation of its proposal. *See* 35 Ill. Adm. Code 102.428(c). Under the Board's procedural rules, all pre-filed testimony will be entered into the record as if read. *See* 35 Ill. Adm. Code 102.424(f). A brief summary of testimony will be allowed if a witness wishes to provide one before responding to questions.

After the Agency has addressed all questions from other participants, other participants who have pre-filed testimony will then testify and respond to questions. Participants who do not pre-file testimony for the hearing will be allowed to testify and respond to questions as time permits after the conclusion of all of the pre-filed testimony and questions based upon it. *See* 35 Ill. Adm. Code 102.424(g).

Participant wishing to offer a public comment will be allowed to do so if time permits at the close of the testimony and questions. The Board's procedural rules also include an opportunity to file post-hearing comments. *See* 35 Ill. Adm. Code 102.108(b).

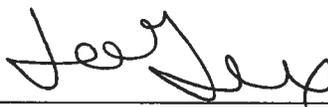
### **Service and Notice Lists**

The hearing officer will establish and maintain both a Notice List and a Service List for this proceeding. *See* 35 Ill. Adm. Code 102.422(a), (b). The Notice List includes participants

who wish to receive copies only of the Board's opinions and orders and hearing officer orders. 35 Ill. Adm. Code 102.422(a). The Service List for this rulemaking is the list of persons who wish to participate actively in this proceeding and receive not only the Board's opinions and orders but also other filings such as pre-filed testimony. See 35 Ill. Adm. Code 102.422(b).

Note that interested persons may now request electronic notice of filings by providing their e-mail address through COOL under this docket number R11-25. This electronic notice includes notice of the filing of documents that are not typically provided to persons on the Notice List. In addition, COOL provides links to documents filed with the Board, and those documents can be viewed, downloaded, and printed free of charge as soon as they are posted to the Board's Web site. For more information about the option of electronic notice or COOL, please consult either the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us) or the Board's Clerk at (312) 814-3629.

IT IS SO ORDERED.



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Timothy J. Fox  
Hearing Officer  
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