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Thomas Holbrook, Chairman

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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 On September 30, 2011, the First District had affirmed the Board in a non-precedential Rule 23 order.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 dark ink, appearing to read "Thomas Holbrook". The signature is written in a cursive style with a large, sweeping initial "T".

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"

(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.

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

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

“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.

Board Actions

November 3, 2011

Chicago, Illinois

AC 12-2	<u>IEPA v. David and Vivian Wright</u> – 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	<u>IEPA v. Ashwin P. and Mia A. Patel</u> – The Board accepted respondents’ petition for review for hearing.	5-0
AC 12-4	<u>IEPA v. Garrison Properties, Inc. & River City Roofing Company, Inc</u> – The Board accepted respondents’ petition for review for hearing.	5-0
AC 12-5	<u>IEPA v. Petro Nation, Inc., d/b/a Golf Mill Shell</u> – 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	<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> – 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	<u>Rolf Schilling, Pam Schilling and Suzanne Ventura v. Gary D. Hill, Villa Land Trust, and Prairie Living West, LLC</u> – 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	<u>People of the State of Illinois v. Prairieland Investment Group, LLC, and Kevin S. Cook, d/b/a KC Construction</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 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, Division 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

**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

Environmental Register – November 2011

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.

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

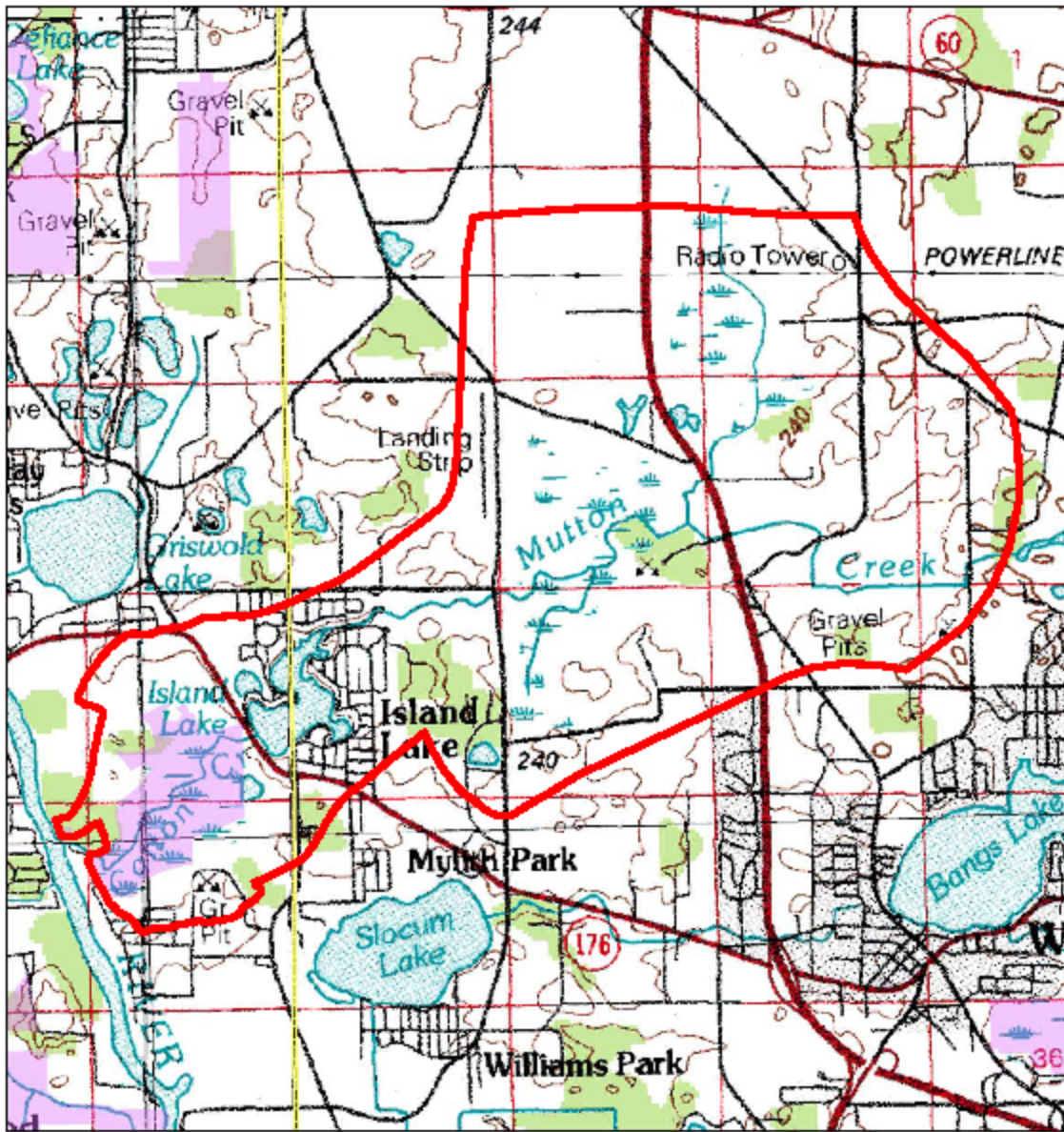
2/22/12 10:00 AM	PCB 11-56	<u>Green Oil Company v. IEPA</u>	Illinois Pollution Control Board Conference Room, First Floor 1021 North Grand Avenue East (North Entrance) Springfield
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EXHIBIT 1




Cotton Creek Marsh

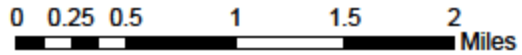
Class III Designation Proposal

Cotton Creek Marsh Class III Groundwater Area



Legend

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



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.

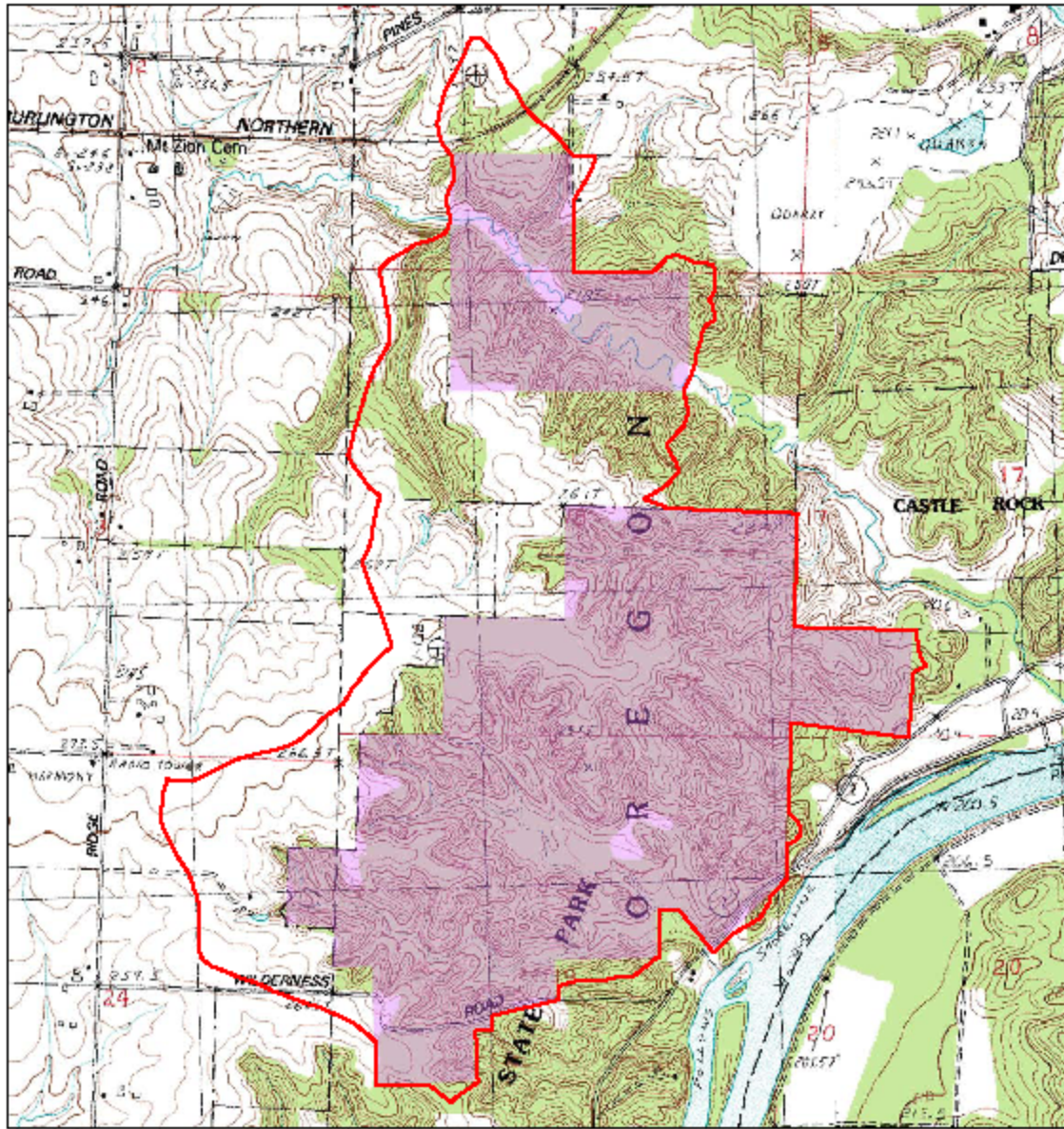
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

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

0 0.25 0.5 1 Miles

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.

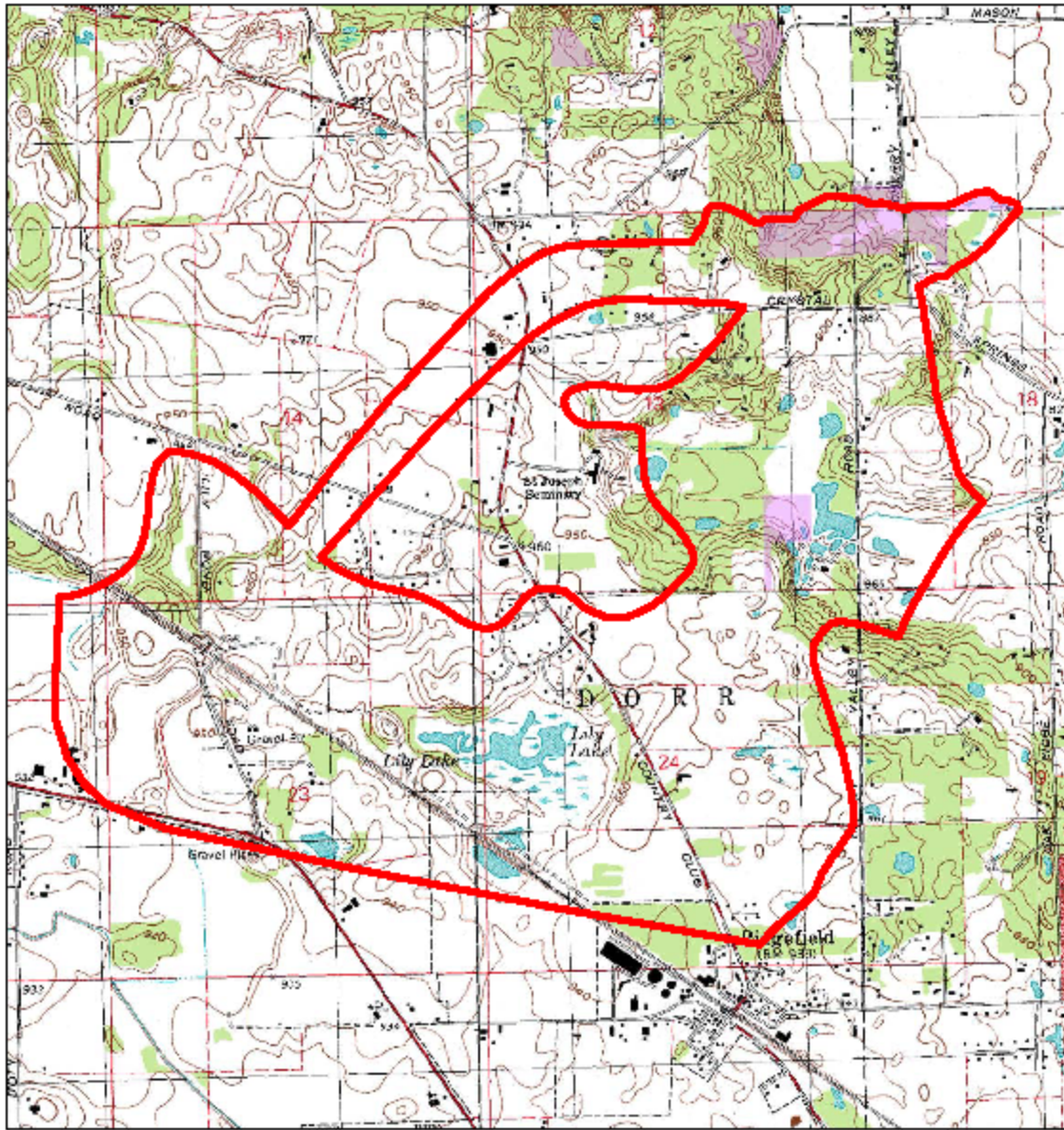
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

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

0 0.25 0.5 1 Miles

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.

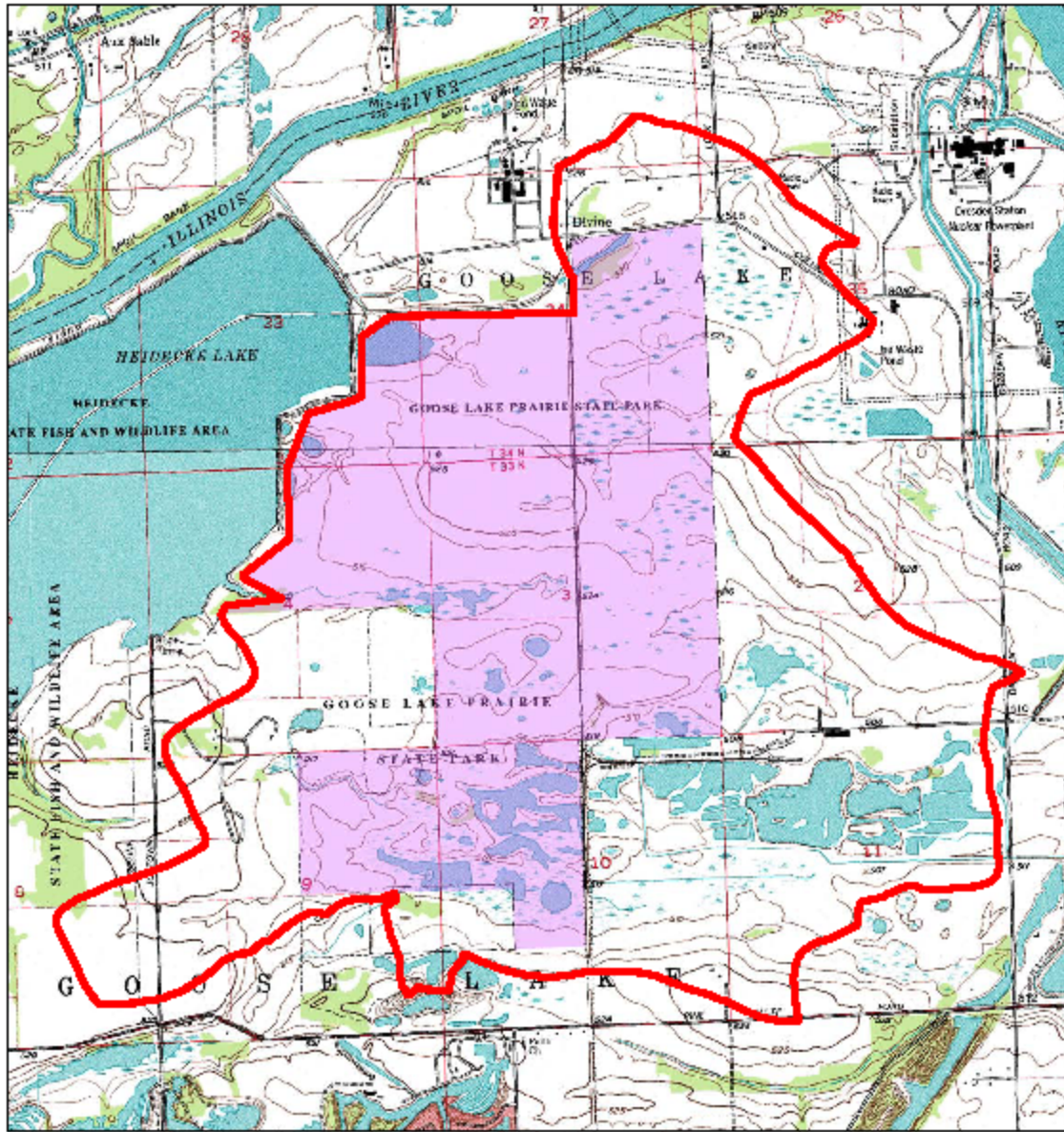
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

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

0 0.25 0.5 1 1.5 Miles

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.

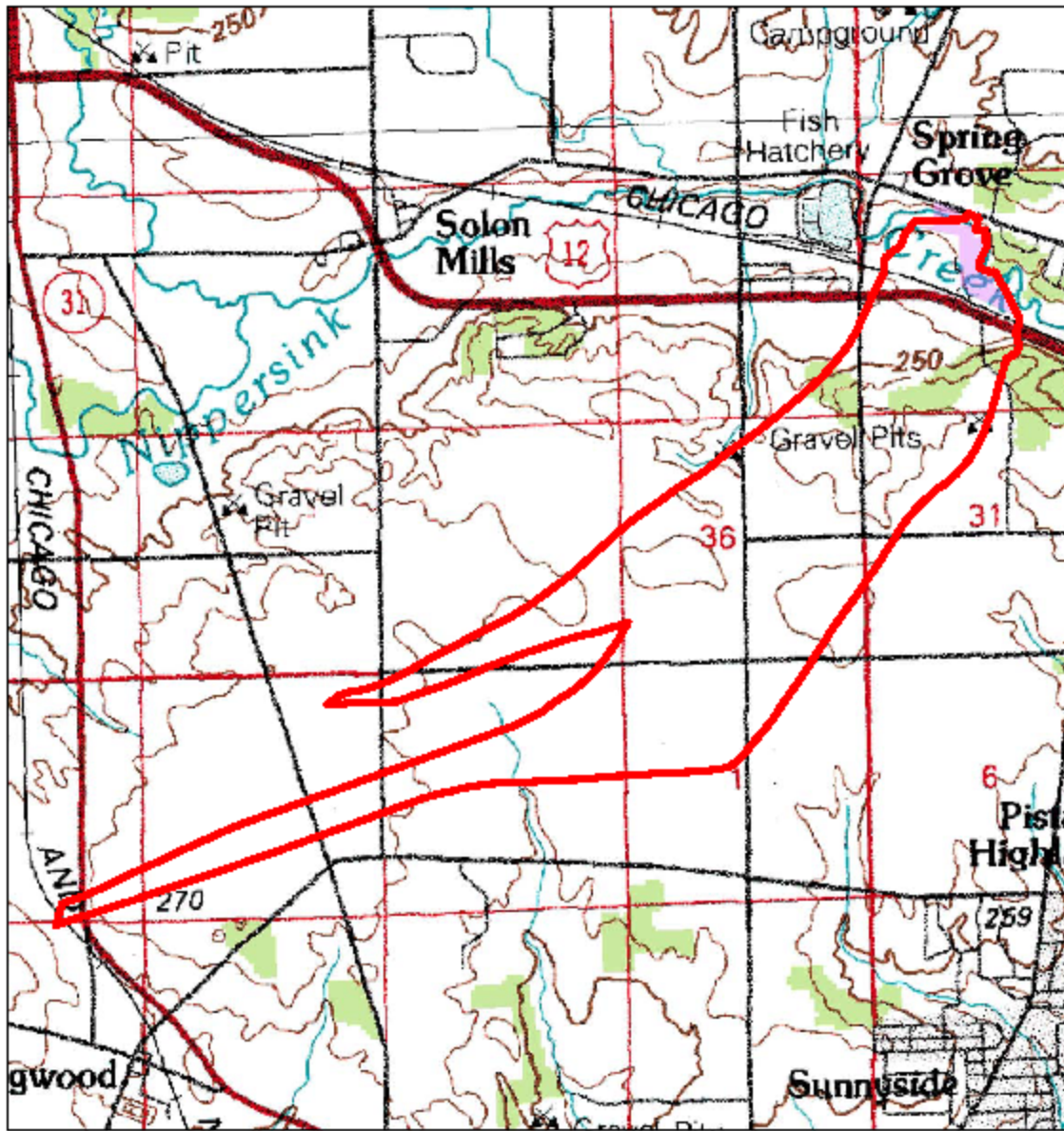
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

EXHIBIT 5




Spring Grove Fen

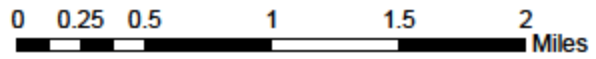
Class III Designation Proposal

Spring Grove Fen Class III Groundwater Area



Legend

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



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.

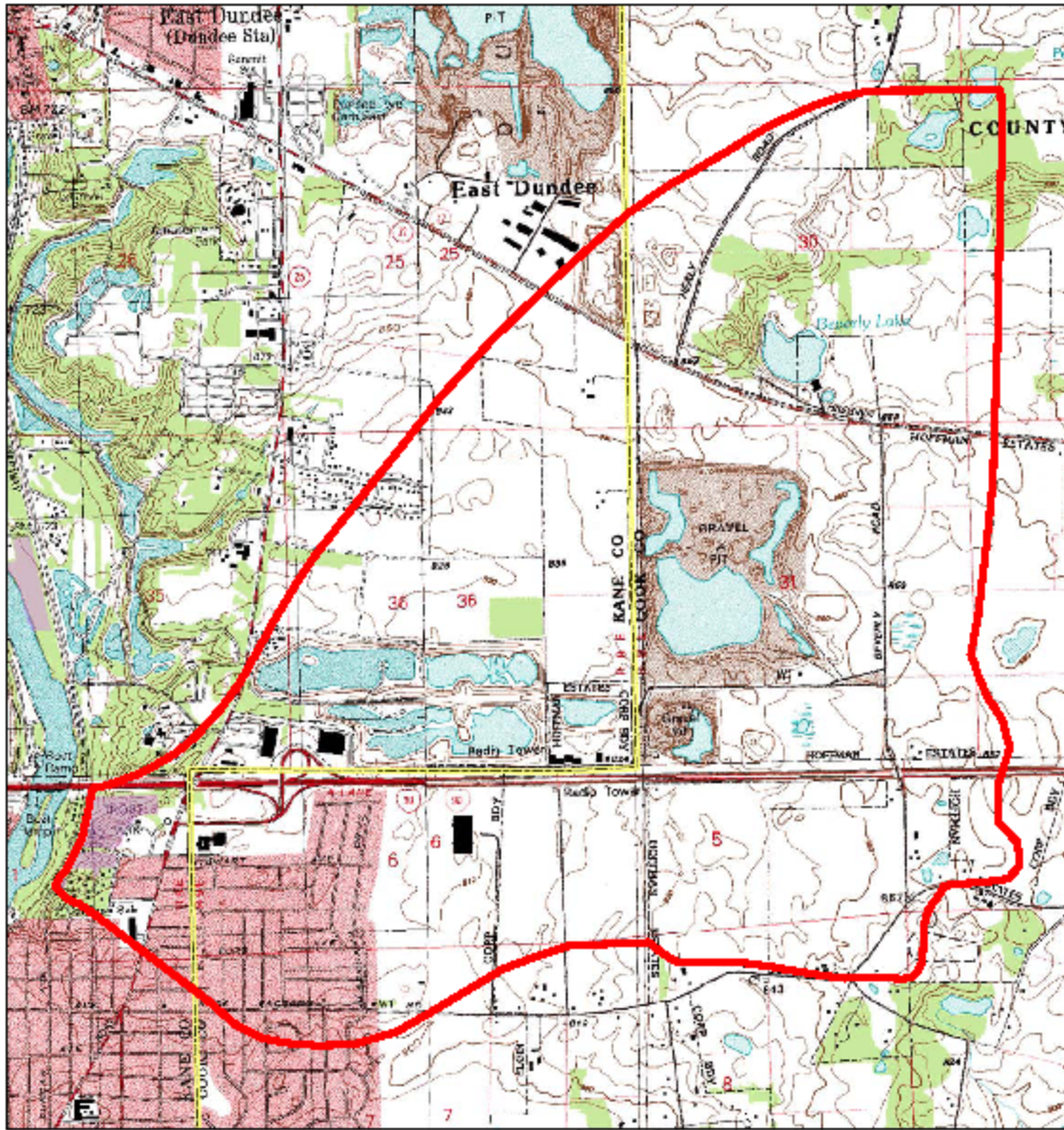
The Groundwater Section of the Bureau of Water at the Illinois EPA has completed the review required according to the criteria specified in Subsection 620.230(b)(1), and finds the petition to be technically adequate.

EXHIBIT 6




Trout Park

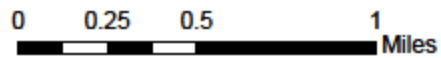
Class III Designation Proposal

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.

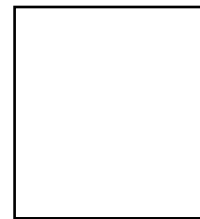
Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (e.g. irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water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

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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Springfield, Illinois 62794-9274