

ILLINOIS POLLUTION CONTROL BOARD
January 8, 2026

BUNGE MILLING, INC.,)
)
Petitioner,)
)
v.) PCB 23-92
) (Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by M. Gibson):

On February 14, 2023, Bunge Milling, Inc. (Bunge) timely filed a petition asking the Board to review a January 4, 2023 permit determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2024); 35 Ill. Adm. Code 101.300(b), 105.206. The determination concerns Bunge’s grain elevator and corn milling facility located at 321 East North Street in Danville, Vermilion County. On March 2, 2023, the Board accepted the petition for review.

On January 5, 2026, Bunge filed a motion to dismiss the permit appeal without prejudice. However, as explained in Atkinson Landfill Company v. IEPA, PCB 12-58 (Feb. 16, 2012), the Board cannot grant a request to dismiss a permit appeal without prejudice:

Under Section 40(a)(1) of the Act, an appeal of a decision by the Agency denying a permit must be filed within 35 days of the Agency’s decision or within the agreed upon extension of the appeal time. [415 ILCS 5/40(a)(1)]. A subsequent petition seeking review of the Agency’s September 30, 2011 decision would be time barred. *See Metropolitan Airport Authority of Rock Island v. Office of State Fire Marshal*, PCB 94-45 (Mar. 31, 1994); Joliet v. IEPA, PCB 07-94 (June 19, 2008). Atkinson, PCB 12-58, slip. op 2.

Therefore, the Board grants the motion to dismiss but necessarily does so with prejudice as to contesting the Agency’s January 4, 2023 permit determination. “However, the Board’s dismissal does not prejudice any appeal rights . . . to appeal future Agency decisions.” *Id.*; *see also Joliet v. IEPA*, PCB 11-08, slip op. at 1-2 (July 7, 2011).

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2018); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board’s procedural rules provide that motions for the Board to reconsider or modify its final

orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Bryan Cave Leighton Paisner LLP Attn.: Thor W. Ketzback and Nora J. Faris 161 N. Clark St., Suite 4300 Chicago, IL 60601 Thor.Ketzback@bclplaw.com Nora.Faris@bclplaw.com	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, IL 60605 don.brown@illinois.gov
Office of the Illinois Attorney General Attn.: Christina Nannini 500 South Second Street Springfield, IL 62706 christina.nannini@ilag.gov	

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 8, 2026, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board