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STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
MAXIMUM SETBACK ZONES	)	R04-0509
35 Ill. Adm. Code 618	)	Rulemaking-Public Water Supplies
	)	

NOTICE

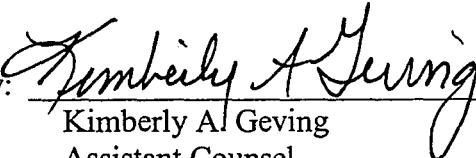
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601

General Counsel  
Illinois Dept. of Natural Resources  
One Natural Resources Way  
Springfield, Illinois 62702-1271

Matt Dunn  
Environmental Bureau Chief  
Office of the Attorney General  
James R. Thompson Center  
100 W. Randolph, 12<sup>th</sup> Floor  
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the Illinois Environmental Protection Agency's ("Illinois EPA") Motion for Acceptance, Appearance of Attorneys, Statement of Reasons, and the Proposed Regulations a copy of each of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Kimberly A. Geving  
Assistant Counsel  
Division of Legal Counsel

DATE: November 3, 2004

1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217)782-5544

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STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )

MAXIMUM SETBACK ZONES )  
35 Ill. Adm. Code 618 )

R04-05-09  
Rulemaking-Public Water Supplies )

**MOTION FOR ACCEPTANCE**

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA")  
and, pursuant to 35 Ill. Adm. Code 102.202, moves the Illinois Pollution Control Board  
("Board") to accept the Illinois EPA proposal for hearing. This regulatory proposal  
includes: 1) the Statement of Reasons and 2) the proposed regulations.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: Renee Cipriano  
Renee Cipriano  
Director

DATE: November 3, 2004

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

NOV 05 2004

IN THE MATTER OF:

MAXIMUM SETBACK ZONES  
35 Ill. Adm. Code 618

)  
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R04-05-09

STATE OF ILLINOIS  
Pollution Control Board

Rulemaking-Public Water Supplies

APPEARANCE

The undersigned, as one of its attorneys, hereby enters her entry of Appearance on behalf of the Illinois Environmental Protection Agency.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: Kimberly A. Geving  
Kimberly A. Geving  
Assistant Counsel  
Division of Legal Counsel

DATE: November 3, 2004

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF:	)	
	)	05-09
MAXIMUM SETBACK ZONES	)	R04-
35 Ill. Adm. Code 618	)	Rulemaking-Public Water Supplies
	)	
	)	

APPEARANCE

The undersigned, as one of its attorneys, hereby enters her entry of Appearance on behalf of the Illinois Environmental Protection Agency.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: Stephanie Flowers  
Stephanie Flowers  
Assistant Counsel  
Division of Legal Counsel

DATE: November 3, 2004

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

NOV 05 2004

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
 )  
 MAXIMUM SETBACK ZONES ) R04-05-09  
 35 Ill. Adm. Code 618 ) (Rulemaking- Public Water Supplies)  
 )  
 )

**STATEMENT OF REASONS**

The Illinois Environmental Protection Agency (Illinois EPA) hereby submits this Statement of Reasons, under Section 27 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/27) and 35 Il. Adm. Code § 102.121(b) in support of these proposed regulations. On March 22, 2004, the City of Marquette Heights, located in Tazewell County, adopted a resolution requesting the Illinois EPA to propose a regulation to increase the setback zone of the Marquette Heights community water supply (CWS). The Illinois EPA proposes these rules in response to the need to expand the setback zone protection for the highly vulnerable groundwater serving the Marquette Heights CWS wells. Thus, the Illinois EPA has developed this proposal in response to this statement and the need to protect the groundwater supplied to Marquette Heights residents as drinking water.

Under Section 14.3(d) of the Act (415 ILCS 5/14.3(d)), the Illinois EPA, after written notice to the appropriate county and municipality, has the authority to propose a maximum setback zone proposal to the Illinois Pollution Control Board (Board). The Illinois EPA can develop such a proposal based upon the following from Section 14.3(d) of the Act:

Such proposal shall be based upon all reasonably available hydrogeologic information, include the justification for expanding the zone of wellhead protection, and specify the boundaries of such zone, no portion of which shall be in excess of 1,000 feet from the wellhead. Such justification shall include the need to protect a sole source of public water supply or a highly vulnerable source of groundwater, or an Agency finding that the presence of potential primary or potential secondary sources or potential routes represents a significant hazard to the public health or the environment.

The Illinois Groundwater Protection Act (IGPA) (415 ILCS 55/1), and related amendments to the Act, were enacted in September 1987. Section 14.2 of the Act (415 ILCS 5/14.2) establishes minimum setback zones of 200 or 400 feet for CWS wells. New potential primary sources, new potential routes, and new potential secondary sources, as defined in Sections 3.345, 3.350 and 3.355 of the Act (415 ILCS 5/ 3.345, 3.350 and 3.355), respectively, are prohibited within these areas. Section 14.3 of the Act (415 ILCS 5/14.3) provides additional protection for CWS wells by authorizing either the county or municipality served by a CWS well or the Board to establish a maximum setback zone of up to 1,000 feet from the wellhead. Under Section 14.3(e) of the Act (415 ILCS 5/14.3), no new potential primary sources can be located within a maximum setback zone.

Section 14.3 of the Act provides the authority to the Board and to counties and municipalities served by CWS wells to establish maximum setback zones. However, the Illinois EPA is required to approve the adequacy of a demonstration that the "lateral area of influence" is larger than the minimum setback zone before adoption of maximum setback zones. The Illinois EPA was required to develop procedures to make such determinations using pumping tests and estimation procedures. The Illinois EPA developed and adopted 35 Ill. Adm. Code 671, Maximum Setback Zone Rules for Community Water Supply Wells, which details the technical criteria for determining the lateral area of influence (LAI). Subpart B of Part 671 sets forth the procedures for determining the LAI of wells under normal operating conditions.

Section 14.4 of the Act (415 ILCS 5/14.4) also requires the development of technology control regulations that apply to certain activities located within the setback zone or regulated recharge area of potable water supply wells. Activities regulated under Section 14.4 of the Act include:

1. land filling, land treating, surface impounding or piling of special waste and other wastes which could cause contamination of groundwater and which are generated on the site, other than hazardous, livestock and landscape waste, and construction and demolition debris;
2. storage of special waste in an underground storage tank for which federal regulatory requirements for the protection of groundwater are not applicable;
3. storage and related handling of pesticides and fertilizers at a facility for the purpose of commercial application;
4. storage and related handling of road oils and de-icing agents at a central location; and
5. storage and related handling of pesticides and fertilizers at a central location for the purpose of distribution to retail sales outlets. (415 ILCS 5/14.3)

The Board adopted these technology control regulations for Existing and New Activities within Setback Zones and Regulated Recharge Areas (35 Ill. Adm. Code 615 and 616) (Technical Standards) on December 6, 1991. Those regulations apply to this new Part 618 and are cross-referenced in Section 618.200.

#### General Overview

After significant negotiations between environmental groups, business groups, and local government, the IGPA was proposed to the Illinois General Assembly and enacted in September 1987. Under the authority of the IGPA, the groundwater protection program advanced five general principles that are relevant to this proposal: local involvement partnership between State and local interests, differential protection for the aquifer, the need for sound technical information, and a preference for prevention. With regard to these principles, the regional protection program emphasized local involvement where information transfer, education, and advocacy were accentuated over regulation. Local governments were authorized, not mandated, to adopt setback zone ordinances and to do groundwater protection needs assessments under Illinois EPA guidance.

As part of a responsible partnership between State and local governments, the Illinois EPA developed a well site survey program to generate needed information for local governments to use in adopting ordinances. Upon request from smaller local governments, the Illinois EPA was authorized to do hazard reviews to help determine the need for local groundwater protection. The IGPA mandated statewide mapping of "appropriate recharge areas," and after a two-year period, authorized the Illinois EPA to propose regulations for needed maximum setback zones in instances where local governments choose not to act.

Section 17.2 of the Act (415 ILCS 5/1) requires the creation of Priority Groundwater Protection Planning Regions. These Priority Groundwater Protection Planning Regions and associated committees were established based on identification of appropriate recharge area mapping conducted by the Department of Natural Resources (DNR) as required by Section 7(b)(2) of the IGPA. The DNR published the "Potential for Aquifer Recharge in Illinois [Appropriate Recharge Area] Map" in 1990. The Priority Groundwater Protection Planning Committees include representative from counties and municipalities, owners and operators of public water supplies utilizing groundwater, and members of the general public interested in protecting groundwater. The Illinois EPA further refined the general public representation to include members from business, environmental, and agricultural interests.

The Central Regional Planning Committee (CRPC) was established in 1991. The CRPC is one of four priority groundwater protection planning regions that have been established in the State. The central region is comprised of the counties of Mason, Peoria, Tazewell and Woodford. The Marquette Heights CWS wells are located in Tazewell County.



### Purpose and Effect of the Proposal

The purpose of this regulation is to prevent contamination of the groundwater used by Marquette Heights CWS. The provisions proposed herein will reduce the potential risk of contamination to the aquifer within the maximum setback zone utilized by the CWS and thereby increase the assurance of a safe and adequate source of potable water.

### Facts Supporting the Proposal

The Illinois EPA has provided for review and consideration by the Board the facts, which support the adoption of maximum setback zones for the Marquette Heights CWS wells. The following subsection contains a synopsis of the Illinois EPA's methodology, rationale, and conclusions underlying this regulatory package.

#### Delineation of a Wellhead Protection Area for Marquette Heights CWS Wells

The City of Marquette Heights has CWS wells located in North Pekin. It is estimated that the average daily pumpage from the groundwater source of 240,900 gallons per day (gpd) supplying about 3,200 persons directly.

The Illinois EPA conducted a source water assessment pursuant to §1453 of the federal Safe Drinking Water Act (SDWA) for the Marquette Heights CWS wells. This assessment evaluated the existing water quality, intrinsic geologic vulnerability, existing potential sources of groundwater contamination, and determined the overall susceptibility of these wells based on the combination of these factors. Each of the wells is susceptible to groundwater contamination.

In addition, the Illinois EPA contracted with RAPPS Engineering and Applied Science to develop a regional groundwater flow model for the Creve Coeur to Pekin area, and to subsequently delineate the recharge areas for the Marquette Heights wells. This more sophisticated approach allowed for the determination of an irregular shaped maximum setback

zone, up to 1,000 feet, for the respective wellheads by taking into account the regional groundwater gradient in combination with the LAI, and other pumping stresses in the area. Recharge area modeling was conducted to be consistent with 35 Ill. Adm. Code 671. Groundwater flow modeling was performed to evaluate the adequacy of protection afforded to resource groundwater by the minimum zones established for Marquette Heights CWS wells. This evaluation demonstrates that recharge is occurring beyond the minimum setback zones, and that the wells are not adequately protected.

#### Regulatory Development and Public Notice

On March 29, 2004, the Illinois EPA received a letter from the Mayor of Marquette Heights with an enclosed resolution requesting for us to develop this proposal. After receipt of this letter and resolution the source water assessment completed for Marquette Heights on April 25, 2003 was evaluated to determine the susceptibility/vulnerability of the wells to groundwater contamination. The Illinois EPA can develop a maximum setback zone proposal based upon the following from Section 14.3(d) of the Act (415 ILCS 5/14.3(d)):

Such proposal shall be based upon all reasonably available hydrogeologic information, include the justification for expanding the zone of wellhead protection, and specify the boundaries of such zone, no portion of which shall be in excess of 1,000 feet from the wellhead. Such justification shall include the need to protect a sole source of public water supply or a highly vulnerable source of groundwater, or an Agency finding that the presence of potential primary or potential secondary sources or potential routes represents a significant hazard to the public health or the environment. (Emphasis added)

Evaluation conducted by the Illinois EPA concludes that the Marquette Heights CWS wells are a highly vulnerable source of groundwater. In addition, the Illinois EPA issued an advisory of groundwater contamination hazard for North Pekin and Marquette Heights on July 25, 1990 pursuant to Section 17.1(g) of the Act (415 ILCS 5/17.1(g)). This advisory was issued due to the presence of potential sources of groundwater contamination that represented a

significant hazard to public health and the environment. Therefore, this proposal meets the requirements for justification, emphasized above, under Section 14.3(g) of the Act. Further, pursuant to Section 14.3(d) of the Act, the Illinois EPA provided notice by certified mail to the City of Marquette Heights, Village of North Pekin, the Tazewell County Zoning Office, and the Central Priority Groundwater Protection Planning Committee on June 21, 2004. On July 7, 2004, the Central Priority Planning Committee included discussion of the proposed Marquette Heights maximum setback zone as one of the agenda items for discussion. The Illinois EPA presented the background on the proposal and asked for the committee's input. A couple of general questions were asked and answered to their satisfaction. The regional committee understood the need for this protective measure and raised no objections to proceeding with the proposal.

The IGPA (415 ILCS 55/5), established the Interagency Coordinating Committee on Groundwater (ICCG). The Illinois EPA chairs the ICCG. The ICCG is comprised of: the Illinois Department of Public Health (IDPH); Department of Natural Resources (DNR); Department of Agriculture (DOA); Illinois State Fire Marshall (ISFM); Department of Commerce and Economic Opportunity (DCEO), and Illinois Emergency Management Agency (IEMA). The IGPA also establishes the Groundwater Advisory Council (GAC). The GAC is comprised of environmental, business, public water supply, county and municipal government, regional planning, and water well driller interest group representatives. The ICCG and GAC work jointly, and the Illinois EPA is the liaison between the ICCG and GAC. This state level coordinating committee and advisory council also works with the four priority groundwater protection-planning committees (415 ILCS 5/17.2) with diverse local stakeholder representation. A joint meeting of the ICCG and GAC was held on July 27, 2004 to discuss, among under

issues, their input on the Marquette Heights maximum setback zone proposal. Similar to the regional committee, the GAC understood the need for the proposal and raised no objections.

Pursuant to Section 14.3 (d) of the Act, the Illinois EPA "...may proceed with filing such a proposal unless the county or municipality, within 30 days of the receipt of the written notice, files a request for a conference with the Agency. The Illinois EPA did not receive any comments, within the 30-day period prescribed by Section 14.3(d) of the Act, from City of Marquette Heights, Village of North Pekin, or the Tazewell County Zoning Office in regard to the written notice provided to them by the Illinois EPA on June 25, 2004. Accordingly, we are proceeding with this proposal to the Board.

#### The Illinois EPA's Proposal

The following is a section-by-section summary of the Illinois EPA's proposal.

##### Subpart A General Maximum Setback Zones

This Subpart establishes the general provisions associated with maximum setback zones that are adopted by the Board.

##### Section 618.100 Purpose

This Section defines the purpose of maximum setback zone regulations delineated pursuant to Section 14.3 of the Act (415 ILCS 5/14.3).

##### Section 618.105 Definitions

The Illinois EPA has proposed general definitions for maximum setback zones within the State of Illinois. The definitions proposed are derived from the Act, IGPA, and other Board regulations.

##### Subpart B Marquette Heights CWS Well Maximum Setback Zones

This Subpart details the specific requirements that are being proposed to apply within the delineated Marquette Heights CWS well maximum setback zones.

#### Section 618.200 Purpose

The Purpose section describes the standards and requirements being proposed for the protection of the Marquette Heights CWS wells.

#### Section 618.205 1,000 Foot Maximum Setback Zone Prohibition

Section 618.205 describes the requirement that new potential primary sources are prohibited within the maximum setback zone of the Marquette Heights CWS wells in Appendix A of this Part. This requirement is based on Section 14.3 of the Act.

#### Section 618. Subpart B.Appendix A

Appendix A details a map of the Marquette Heights CWS wells (50280 and 50281), maximum setback zone boundaries, roads, and property boundaries and associated identification numbers. The local property boundaries and associated identification numbers were obtained from the county assessor's office. In addition, to assist with implementation, ease of understanding of the area being regulated, and conformance with local zoning, Illinois EPA has annotated the map with the properties located wholly or partially within the proposed maximum setback zone.

#### Enforceability

A violation of a rule or standard set out in of 35 Ill. Adm. Code 618 Subpart B, once adopted by the Board, would constitute a violation of the Act (415 ILCS 5/14.3 and 415 ILCS 5/18) per se. Where the violation of the Part 618 maximum setback zone also causes, threatens, or allows groundwater pollution, the infringement would constitute a violation of the

Groundwater Quality Standards (35 Ill. Adm. Code 620) and Section 12 of the Act (415 ILCS 5/12 (1996)).

Agency Witness and Synopsis of Testimony

The Agency will provide one witness in this proceeding: Rick Cobb. Mr. Cobb will provide an overview of the background necessitating this proposal as well as the regulatory development process and support for the entire proposal.

The Agency will submit written testimony in advance of the hearings pursuant to any hearing officer order that follows this proposal. The Agency respectfully requests that the Board accept Mr. Cobb's testimony into the record as if read at hearing and allow him to briefly summarize his testimony during the hearing. The suggestion has streamlined several regulatory hearings in the past and offers the Agency the opportunity to more fully respond to questions (pre-filed or otherwise) during the information gathering process.

Technical Feasibility and Economical Reasonableness

The pollution of groundwater can have wide-ranging economic implications to local communities. Groundwater contamination can produce significant economic hardships for local businesses and communities, including the following: devalued real estate; diminished home sales or commercial real estate sales; loss to the tax base; consulting and legal fees; increased operation and maintenance costs; increased water rates for alternative water supplies as well as the cost of new equipment and treatment; and remediation costs including site characterization, feasibility studies, and long-term treatment and disposal costs. In contrast, establishing a maximum setback will reduce the likelihood of contamination, thereby reducing costs.

Conclusions

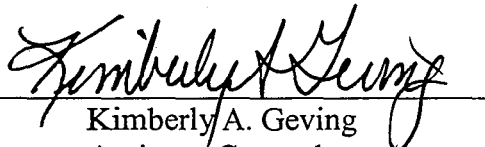
The Illinois EPA's maximum setback zone rule proposal is consistent with the Illinois EPA philosophy, as discussed early in this document. The Illinois EPA's proposal for protection of groundwater in this rulemaking is limited to potential sources of groundwater contamination located within Marquette Heights CWS well maximum setback zones.

In summary, the Illinois EPA's proposed regulations do the following: expand the area of applicability for the Board's existing technical standards; and require the prohibition of new potential primary sources from locating within the maximum setback zone.

Promulgation of this proposal is necessary to protect the immediate recharge area of the Marquette Heights CWS wells and the groundwater supplying the City of Marquette Heights. The proposed regulation is economically reasonable and technically feasible. The Illinois EPA respectfully requests the Board to adopt the Illinois EPA's proposed regulation in its entirety as submitted.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Kimberly A. Geving  
Assistant Counsel

DATED: November 3, 2004

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Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Maximum Setback Zones.
- 2) Code Citation: 35 Ill. Adm. Code 618.
- 3) Section Numbers: All.                      Proposed Action: new rule.
- 4) Statutory Authority: Implementing Section 14.3 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/14.3 and 27].
- 5) A complete Description of the Subjects and Issues Involved: Part 618 is a new Part that prescribes maximum setback zones that apply under 35 Ill. Adm. Code Parts 615 and 616. This new Part is necessary to ensure public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to ensure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply.
- 6) Will this proposed rule replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date: \_\_\_ Yes     No
- 8) Does this proposed rule contain incorporations by reference? Yes.
- 9) Are there any other proposed rule(s) pending on this Part? No.
- 10) Statement of Statewide Policy Objectives: See number 5 above.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: To be determined by the Pollution Control Board.
- 12) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: This rule will affect any small business, small municipality, or not-for-profit corporation that is located within the maximum setback zone and does any of the following: land filling, land treating, surface impounding or piling of special waste and other wastes that could cause contamination of groundwater when such wastes are generated on the site (other than hazardous, livestock and landscape waste,



and construction and demolition debris); storing of special waste in an underground storage tank for which federal regulatory requirements for the protection of groundwater are not applicable; storing and related handling of pesticides and fertilizers at a facility for the purpose of commercial application; storing and related handling of road oils and de-icing agents at a central location; or storing and related handling of pesticides and fertilizers at a central location for the purpose of distribution to retail sales outlets. [415 ILCS 5/14.3]

Further, this rule will affect any small business, small municipality, or not-for-profit corporation that proposes to locate a Potential Primary Source (as defined in the regulation) within such zone after the effective date of this regulation.

- B) Reporting, bookkeeping or other procedures required for compliance: None under the new Part 618, but Parts 616 and 617, referenced in this rule, do have reporting requirements.
- C) Types of professional skills necessary for compliance: Part 618 does not necessarily require professional skills outside of the general knowledge of a water supply operator or the owner and operator of a site that is a new potential primary source. However, Parts 616 and 617, referenced in this rule, do require the use of either a Professional Engineer or Professional Geologist.

13) Regulatory Agenda on which this rulemaking was summarized: July 2004

The full text of the Proposed Rule begins on the next page:

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ILLINOIS POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE F: PUBLIC WATER SUPPLIES  
CHAPTER I: POLLUTION CONTROL BOARD

PART 618  
MAXIMUM SETBACK ZONES

SUBPART A: GENERAL

Section	
618.100	Purpose
618.105	Definitions

SUBPART B: MARQUETTE HEIGHTS' MAXIMUM SETBACK ZONE

Section	
618.200	Purpose
618.205	1,000 Foot Maximum Setback Zone Prohibition

Appendix A Boundary of Marquette Heights' Maximum Setback Zone

AUTHORITY: Implementing Section 14.3 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/14.3 and 27].

SOURCE: Proposed in R \_\_\_\_\_ at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL

Section 618.100	Purpose
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This Part is established in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply. Pursuant to the authority of Section 14.3 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1, and 35 Ill. Adm. Code 671, the provisions of this Part apply to all properties located within the maximum setback zone established under Section 14.3 of the Act and this regulation.

Section 618.105	Definitions
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NOTICE OF PROPOSED RULES

Unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part are the same as those used in 35 Ill. Adm. Code 671, the Act, or the Illinois Groundwater Protection Act [415 ILCS 55/1].

“Agency” means the Illinois Environmental Protection Agency.

“Board” means the Illinois Pollution Control Board.

“Facility” means *the buildings and all real property contiguous thereto, and the equipment at a single location used for the conduct of business.* [430 ILCS 45/3]

“New Potential Primary Source” means:

*a potential primary source which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or*

*a potential primary source which expands laterally beyond the currently permitted boundary or, if the primary source is not permitted, the boundary in existence as of January 1, 1988; or*

*a potential primary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility. (Section 3.345 of the Act)*

“New Potential Route” means:

*a potential route which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or*

*a potential route which expands laterally beyond the currently permitted boundary or, if the potential route is not permitted, the boundary in existence as of January 1, 1988. (Section 3.350 of the Act)*

“New Potential Secondary Source” means:

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ILLINOIS POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

*a potential secondary source which is not in existence or for which construction has not commenced at its location as of July 1, 1988; or*

*a potential secondary source which expands laterally beyond the currently permitted boundary or, if the secondary source is not permitted, the boundary in existence as of July 1, 1988, other than an expansion for handling of livestock waste or for treating domestic wastewaters; or*

*a potential secondary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility (Section 3.355 of the Act); and*

*A new potential secondary source excludes an agrichemical facility that modifies on-site storage capacity such that the volume of the pesticide storage does not exceed 125% of the available capacity in existence on April 1, 1990, or the volume of fertilizer storage does not exceed 150% of the available capacity in existence on April 1, 1990; provided that a written endorsement for an agrichemical facility permit is in effect under Section 39.4 of the Act and the maximum feasible setback is maintained. This on-site storage capacity includes mini-bulk pesticides, package agrichemical storage areas, liquid or dry fertilizers, and liquid or dry pesticides. (Section 14.2(g)(4) of the Act)*

*“Potential Primary Source” means any unit at a facility or site not currently subject to a removal or remedial action which:*

*is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site; or*

*is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or*

*is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or*

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NOTICE OF PROPOSED RULES

*stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground, of any hazardous substances. (Section 3.345 of the Act)*

*“Potential route” means abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel. (Section 3.350 of the Act)*

*“Potential secondary source” means any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source, which:*

*is utilized for the landfilling, land treating, or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or*

*stores or accumulates at any time more than 25,000 but not more than 75,000 pounds above ground, or more than 2,500 but not more than 7,500 pounds below ground, of any hazardous substances; or*

*stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground, of petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or*

*stores or accumulates pesticides, fertilizers, or road oils for purposes of commercial application or for distribution to retail sales outlets; or*

*stores or accumulates at any time more than 50,000 pounds of any de-icing agent; or*

*is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the Private Sewage Disposal Licensing Act. (Section 3.355 of the Act)*

*“Setback zone” means a geographic area, designated pursuant to the Act, containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or*

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ILLINOIS POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

*regulations are applicable in order to protect groundwaters. (Section 3.450 of the Act)*

*“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by the Act or regulations thereunder. (Section 3.460 of the Act)*

*“Unit” means any device, mechanism, equipment, or area (exclusive of land utilized only for agricultural production). This term includes secondary containment structures and their contents at agrichemical facilities. (Section 3.515 of the Act)*

*“Unit boundary” means a line at the land's surface circumscribing the area on which, above which, or below which waste, pesticides, fertilizers, road oils or de-icing agents will be placed during the active life of the facility. The space taken up by any liner, dike or other barrier designed to contain waste, pesticides, fertilizers, road oils, or de-icing agents falls within the unit boundary.*

SUBPART B: MARQUETTE HEIGHTS' MAXIMUM SETBACK ZONE

Section 618.200 Purpose

This Subpart prescribes maximum setback zone prohibitions and the applicable technology control regulations that apply under 35 Ill. Adm. Code 615 and 616 in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply. The provisions of this regulation apply to all properties located within the maximum setback zone boundaries of Marquette Heights:

- a) For new potential primary sources of groundwater contamination pursuant to Section 14.3(d) of the Act; and
- b) For existing and new activities regulated under 35 Ill. Adm. Code 615 and 616 for agrichemical facilities regulated under 8 Ill. Adm. Code 257 or 77 Ill. Adm. Code 830 located wholly or partially within the maximum setback zone boundaries delineated in Section 618.Appendix A of this Part.

Section 618.205 1,000 Foot Maximum Setback Zone Prohibition

ILLINOIS REGISTER

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ILLINOIS POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

A prohibition is established for the location of new potential primary sources of groundwater contamination within the Marquette Heights' delineated 1,000 foot maximum setback zone boundaries detailed in Section 618.Appendix A of this Part.

Section 618.Appendix A: Boundary of Marquette Heights' Maximum Setback Zone

Board Note: A full-scale copy of this map is available for public inspection in the Board's office at the James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601.

SECTION 618. SUBPART B. APPENDIX A MARQUETTE HEIGHTS MAXIMUM SETBACK ZONE



WHOLLY CONTAINED	PARTIALLY CONTAINED
102	115
21-011	7-037
38-018	8-036
	9-035
103	9-034
1-005	10-033
2-004	10-032
	30-033
106	11-030
68-007	12-029
69-006	31-031
70-005	31-032
71-004	13-026
72-003	32-030
73-002	33-044
74-001	14-024
75-021	A-023
76-022	B-022
77-023	C-021
78-024	D-040
79-025	16-002
80-026	16-001
81-027	17-003
82-028	17-003
83-029	18-004
84-030	18-004
	19-041
109	158-016
106-008	160-014
107-007	20-009
108-006	161-013
109-005	20-010
110-004	21-011
111-003	162-012
112-002	163-011
113-001	164-010
114-019	22-013
115-020	22-014
116-021	23-015
117-022	23-016
118-023	24-017
119-022	24-017
120-025	118
121-026	67-005
	Outlet C-1-006
	Outlet C-1-007
	119
	1-001
	2-002
	3-003
	4-004
	106
	64-010
	51-019
	66-009
	67-008
	85-031
	86-032
	56-014
	57-015
	58-012
	122-027
	67-005
	66-004
	65-003
	64-002
	111
	153-021
	152-022
	26-051
	114
	A-009
	B-010
	115
	6-038
	6-039
	104
	25-042
	1-008
	120
	15-002
	14-001
	3-003
	102
	36-016
	37-017
	22-010
	5-005
	6-006
	7-007
	8-008
	101
	20-010
	105
	Park-001



Legend

- Marquette Heights CWS Wells
- Marquette Heights Maximum Setback Zone
- Pekin Township Plat Map



ILLINOIS EPA  
2004

SOURCE INFORMATION

Pekin Township Plat Map obtained from Tazewell County Assessor's Office.  
Marquette Heights Community Water Supply Wells and Maximum Setback Zone information obtained map compiled and created by Illinois EPA Groundwater Section



SUBTITLE F

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE F: PUBLIC WATER SUPPLIES  
CHAPTER I: POLLUTION CONTROL BOARD

PART 618  
MAXIMUM SETBACK ZONES

SUBPART A: GENERAL

Section	Purpose
618.100	Purpose
618.105	Definitions

SUBPART B: MARQUETTE HEIGHTS' MAXIMUM SETBACK ZONE

Section	Purpose
618.200	Purpose
618.205	1,000 Foot Maximum Setback Zone Prohibition

Appendix A Boundary of Marquette Heights' Maximum Setback Zone

AUTHORITY: Implementing Section 14.3 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/14.3 and 27].

SOURCE: Proposed in R. \_\_\_\_\_ at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBTITLE F

SUBPART A: GENERAL

Section 618.100 Purpose

This Part is established in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply. Pursuant to the authority of Section 14.3 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1, and 35 Ill. Adm. Code 671, the provisions of this Part apply to all properties located within the maximum setback zone established under Section 14.3 of the Act and this regulation.

## SUBTITLE F

## Section 618.105 Definitions

Unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part are the same as those used in 35 Ill. Adm. Code 671, the Act, or the Illinois Groundwater Protection Act [415 ILCS 55/1].

“Agency” means the Illinois Environmental Protection Agency.

“Board” means the Illinois Pollution Control Board.

“Facility” means *the buildings and all real property contiguous thereto, and the equipment at a single location used for the conduct of business.* [430 ILCS 45/3]

“New Potential Primary Source” means:

*a potential primary source which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or*

*a potential primary source which expands laterally beyond the currently permitted boundary or, if the primary source is not permitted, the boundary in existence as of January 1, 1988; or*

*a potential primary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility. (Section 3.345 of the Act)*

“New Potential Route” means:

*a potential route which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or*

*a potential route which expands laterally beyond the currently permitted boundary or, if the potential route is not permitted, the boundary in existence as of January 1, 1988. (Section 3.350 of the Act)*

“New Potential Secondary Source” means:

## SUBTITLE F

*a potential secondary source which is not in existence or for which construction has not commenced at its location as of July 1, 1988; or*

*a potential secondary source which expands laterally beyond the currently permitted boundary or, if the secondary source is not permitted, the boundary in existence as of July 1, 1988, other than an expansion for handling of livestock waste or for treating domestic wastewaters; or*

*a potential secondary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility (Section 3.355 of the Act); and*

*A new potential secondary source excludes an agrichemical facility that modifies on-site storage capacity such that the volume of the pesticide storage does not exceed 125% of the available capacity in existence on April 1, 1990, or the volume of fertilizer storage does not exceed 150% of the available capacity in existence on April 1, 1990; provided that a written endorsement for an agrichemical facility permit is in effect under Section 39.4 of the Act and the maximum feasible setback is maintained. This on-site storage capacity includes mini-bulk pesticides, package agrichemical storage areas, liquid or dry fertilizers, and liquid or dry pesticides. (Section 14.2(g)(4) of the Act)*

*“Potential Primary Source” means any unit at a facility or site not currently subject to a removal or remedial action which:*

*is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site; or*

*is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or*

*is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or*

## SUBTITLE F

*stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground, of any hazardous substances. (Section 3.345 of the Act)*

*“Potential route” means abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel. (Section 3.350 of the Act)*

*“Potential secondary source” means any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source, which:*

*is utilized for the landfilling, land treating, or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or*

*stores or accumulates at any time more than 25,000 but not more than 75,000 pounds above ground, or more than 2,500 but not more than 7,500 pounds below ground, of any hazardous substances; or*

*stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground, of petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or*

*stores or accumulates pesticides, fertilizers, or road oils for purposes of commercial application or for distribution to retail sales outlets; or*

*stores or accumulates at any time more than 50,000 pounds of any de-icing agent; or*

*is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the Private Sewage Disposal Licensing Act. (Section 3.355 of the Act)*

*“Setback zone” means a geographic area, designated pursuant to the Act, containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or*

SUBTITLE F

*regulations are applicable in order to protect groundwaters. (Section 3.450 of the Act)*

*“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by the Act or regulations thereunder. (Section 3.460 of the Act)*

*“Unit” means any device, mechanism, equipment, or area (exclusive of land utilized only for agricultural production). This term includes secondary containment structures and their contents at agrichemical facilities. (Section 3.515 of the Act)*

*“Unit boundary” means a line at the land's surface circumscribing the area on which, above which, or below which waste, pesticides, fertilizers, road oils or de-icing agents will be placed during the active life of the facility. The space taken up by any liner, dike or other barrier designed to contain waste, pesticides, fertilizers, road oils, or de-icing agents falls within the unit boundary.*

## SUBTITLE F

## SUBPART B: MARQUETTE HEIGHTS' MAXIMUM SETBACK ZONE

## Section 618.200 Purpose

This Subpart prescribes maximum setback zone prohibitions and the applicable technology control regulations that apply under 35 Ill. Adm. Code 615 and 616 in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply. The provisions of this regulation apply to all properties located within the maximum setback zone boundaries of Marquette Heights:

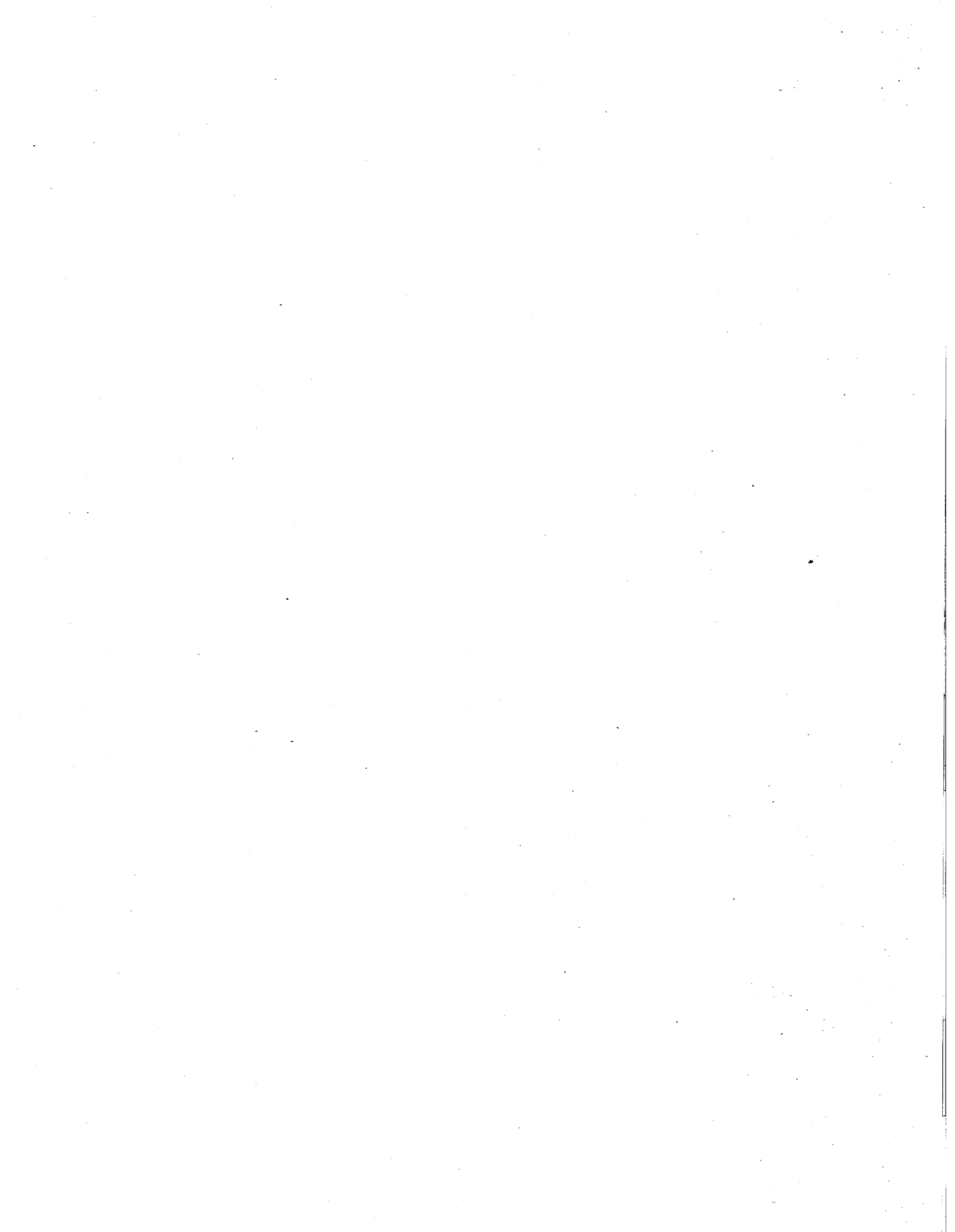
- a) For new potential primary sources of groundwater contamination pursuant to Section 14.3(d) of the Act; and
- b) For existing and new activities regulated under 35 Ill. Adm. Code 615 and 616 for agrichemical facilities regulated under 8 Ill. Adm. Code 257 or 77 Ill. Adm. Code 830 located wholly or partially within the maximum setback zone boundaries delineated in Section 618.Appendix A of this Part.

SUBTITLE F

Section 618.205 1,000 Foot Maximum Setback Zone Prohibition

A prohibition is established for the location of new potential primary sources of groundwater contamination within the Marquette Heights' delineated 1,000 foot maximum setback zone boundaries detailed in Section 618.Appendix A of this Part.

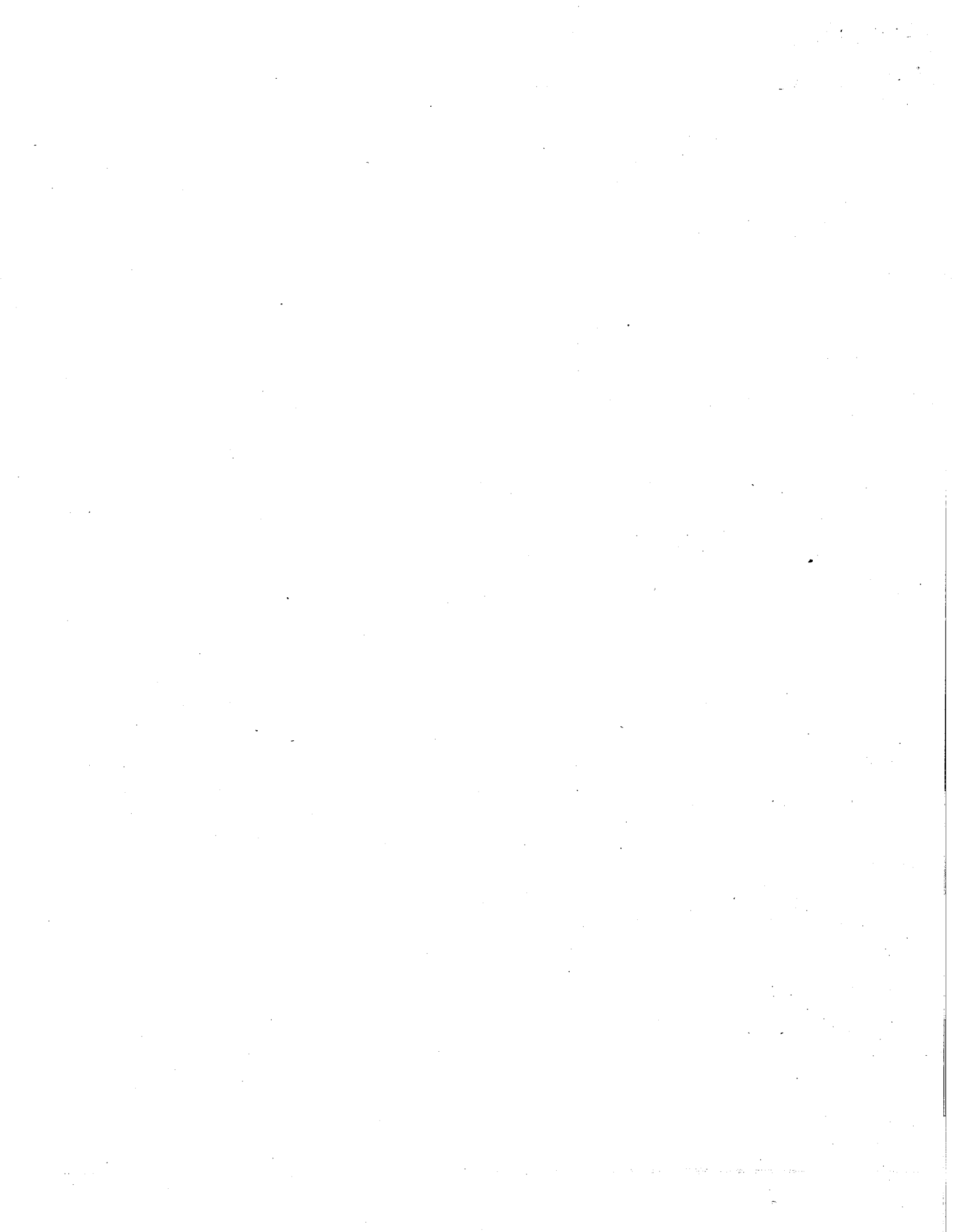




SUBTITLE F

Section 618.Appendix A: Boundary of the Marquette Heights' Maximum Setback Zones

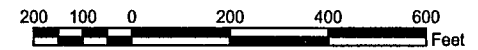
Board Note: A full-scale copy of this map is available for public inspection in the Board's office at the James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601.



SECTION 618. SUBPART B. APPENDIX A MARQUETTE HEIGHTS MAXIMUM SETBACK ZONE



WHOLLY CONTAINED			PARTIALLY CONTAINED	
102	111	115	106	118
21-011	27-039	7-037	64-010	50-020
38-018	27-049	8-036	65-010	51-019
	28-037	9-035	66-009	52-018
103	28-038	9-034	67-008	53-017
1-005	29-035	10-033	85-031	54-016
2-004	29-036	10-032	86-032	55-015
	30-033	11-030		56-014
106	30-034	12-029	109	57-015
68-007	31-031	12-028	105-009	58-012
69-006	31-032	13-027	122-027	59-011
70-005	32-030	13-026	123-028	67-005
71-004	33-044	14-024		66-004
72-003	34-026	A-023	111	65-003
73-002	34-027	B-022	153-021	64-002
74-001	35-025	C-021	152-022	
75-021	36-023	D-040	26-051	114
76-022	154-020	16-001		A-009
77-023	155-019	16-002	115	B-010
78-024	156-018	17-003	6-038	
79-025	157-017	17-003	6-039	104
80-026	158-016	18-004	25-042	1-008
81-027	159-015	19-041		
82-028	160-014	20-009	120	103
83-029	161-013	20-010	15-002	3-003
84-030	162-012	21-011	14-001	
	163-011	21-012		102
109	164-010	22-013	119	36-016
106-008	165-009	22-014	5-005	37-017
107-007	166-008	23-015	6-006	22-010
108-006	167-007	23-016	7-007	
109-005	168-006	24-017	8-008	101
110-004	169-005			20-010
111-003	170-004	118		105
112-002		67-005		Park-001
113-001	114	Outlot C-1-006		
114-019	0.56-008	Outlot C-1-007		
115-020	2.02-002			
116-021	2.02-003	119		
117-022	2.27-007	1-001		
118-023		2-002		
119-022		3-003		
120-025		4-004		
121-026				



Legend

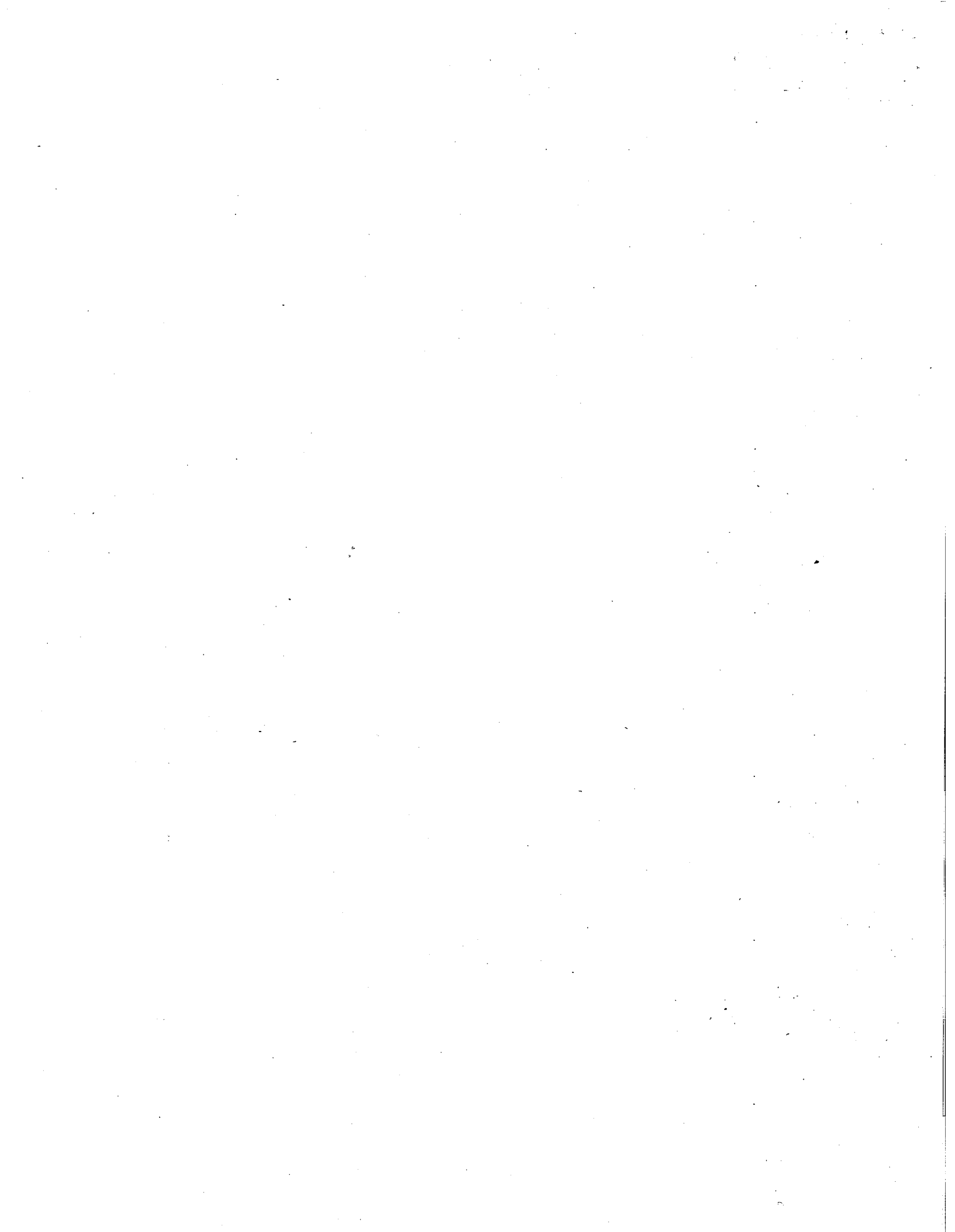
-  Marquette Heights CWS Wells
-  Marquette Heights Maximum Setback Zone
-  Pekin Township Platt Map



ILLINOIS EPA  
2004

SOURCE INFORMATION

Pekin Township Platt Map obtained from Tazewell County Assessor's Office.  
Marquette Heights Community Water Supply Wells and Maximum Setback Zone Information  
obtained map compiled and created by Illinois EPA Groundwater Section



STATE OF ILLINOIS            )  
  )  
COUNTY OF SANGAMON        )

**PROOF OF SERVICE**

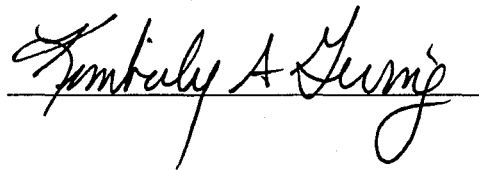
I, the undersigned, on oath state that I have served the attached Motion for Acceptance, Appearance of Attorneys, Motion Regarding Incorporations by Reference, Statement of Reasons, and the Proposed Regulations, upon the persons to whom they are directed, by placing a copy of each in an envelope addressed to:

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601  
**(FIRST CLASS MAIL)**

General Counsel  
Illinois Dept. of Natural Resources  
One Natural Resources Way  
Springfield, Illinois 62702-1271  
**(FIRST CLASS MAIL)**

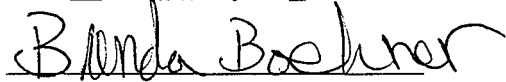
Matt Dunn  
Environmental Bureau Chief  
Office of the Attorney General  
James R. Thompson Center  
100 W. Randolph, 12<sup>th</sup> Floor  
Chicago, Illinois 60601  
**(FIRST CLASS MAIL)**

and mailing them from Springfield, Illinois on November 3, 2004, with sufficient postage affixed as indicated above.



SUBSCRIBED AND SWORN TO BEFORE ME

This 3rd day of November, 2004.

  
Notary Public



**THIS FILING SUBMITTED ON RECYCLED PAPER**

