
Environmental Register

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

Thomas E. Johnson, Chairman

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Letter from the Chairman

The National Drinking Water Alliance celebrated National Drinking Water Week from May 4 through May 10. The theme this year was “Protect Water for Life.” Americans drink more than one billion glasses of tap water every day. As opposed to a large portion of the world, in the United States we have clean, safe drinking water. This is no accident of fortune. Water utilities treat nearly 34 billion gallons of water every day. Ensuring the maintenance of clean, drinkable water in Illinois is of primary importance to the Board. The Board is involved in maintaining the integrity of Illinois’ drinking water in many important ways.



First, through its rulemaking process, the Board promulgates regulations designed to ensure that the water we drink in Illinois is safe. For example, last month the Board held two hearings in a rulemaking proceeding entitled In the Matter of: Amendments to 35 Ill. Adm. Code 602.105, 602.106, 602.108, and 602.115, R03-21. The rulemaking would allow the Illinois Environmental Protection Agency to continue issuing permits to Illinois public water supplies that do not meet the federal radionuclide standard for drinking water, but only if the supply is bound by order or agreement to a compliance schedule for meeting the federal standard. After considering the evidence submitted at the two hearings, the Board will determine whether to adopt the proposed rulemaking for the purpose of first notice. The Board also hears a variety of cases relating directly to drinking water issues, including appeals of IEPA final decisions as well as enforcement cases filed by the Illinois Attorney General’s Office.

Through these various types of proceedings the Board is instrumental in maintaining the viability of drinking water in Illinois. However, ensuring safe drinking water is the responsibility of all Illinois citizens. Be involved. Attend local public hearings and read the annual consumer confidence report provided by your public water supplier. Working together, I am confident that the drinking water supply in Illinois will remain potable for years to come.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'T' followed by a horizontal line extending to the right.

Thomas E. Johnson, Chairman

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Federal Update

United States Environmental Protection Agency Approves Illinois' Emission Test Averaging Program Under the Clean Air Act

On May 9, 2003 (68 Fed. Reg. 24885) the United States Environmental Protection Agency (USEPA) published notice of its approval of revisions to the Illinois rules for averaging of emission tests. Illinois requested the revisions on October 9, 2001. The Illinois rules on averaging emissions can be found at 35 Ill. Adm. Code 283, "General Procedures for Emissions Tests Averaging" adopted by the Illinois Environmental Protection Agency at 24 Ill. Reg. 14428, effective September 11, 2000.

For sources with steady emission rates, the revisions provide for assessing compliance with mass emission limits on the basis of an average of three test runs. USEPA proposed to approve these revisions on April 15, 2002, at 67 FR 18115. The Environmental Law & Policy Center and others submitted a comment letter objecting to the proposed approval. The comments observed that averaging three test runs yields a less stringent compliance test than assessing compliance based on each test run individually. The commenters thus viewed the submittal as an inappropriate relaxation. The comments further objected that the State's rules provide for insufficient information on case-specific test protocol revisions to be able to judge how these revisions would affect test results. USEPA concluded that averaging of three mass measurement test runs is standard practice, and that Illinois is formalizing its pre-existing approach and not relaxing its compliance assessments. USEPA further found that Illinois has adopted an appropriate approach to differentiating between major and minor test method revisions and to addressing minor revisions.

This rule is effective on June 9, 2003.

Copies of the Illinois submittal and other information are available for inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air Programs Branch (AR-18J), Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604.

For further information contact John Summerhays, Environmental Scientist, United States Environmental Protection Agency, Region 5, Air Programs Branch (AR-18J), Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number (312) 886-6067, or email at summerhays.john@epa.gov.

United States Environmental Protection Agency Finds Attainment Reached for Ozone Air Quality Standard in St. Louis and Metro-East Former Ozone Non-Attainment Areas

On May 12, 2003 (68 Fed. Reg. 25442) the United States Environmental Protection Agency (USEPA) determined that the St. Louis ozone nonattainment area (St. Louis area) has attained the one-hour ozone National Ambient Air Quality Standard (NAAQS). The St. Louis ozone nonattainment area includes the Counties of Madison, Monroe, and St. Clair in Illinois and the Counties of Franklin, Jefferson, St. Charles, and St. Louis Counties and St. Louis City in Missouri. Based on the determination of attainment, USEPA also determined that certain ozone attainment demonstration requirements along with certain other ozone planning requirements of part D of title I of the Clean

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Air Act are not applicable for the St. Louis ozone nonattainment area. The USEPA approved a request from the State of Illinois, submitted on December 26, 2002, to redesignate the Metro-East St. Louis area (Madison, Monroe, and St. Clair Counties, Illinois) (the Illinois portion of the St. Louis ozone nonattainment area) to attainment of the one-hour ozone NAAQS. In approving this request, the USEPA also approved Illinois' plan for maintaining the one-hour ozone NAAQS through 2014 as a revision to the Illinois State Implementation Plan (SIP); and finding as adequate and approving the State's 2014 Motor Vehicle Emission Budgets (MVEBs) for Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_x), as contained in the maintenance plan, for transportation conformity purposes.

Additionally, USEPA approved an exemption from certain NO_x emission control requirements, as provided for in section 182(f) of the Clean Air Act, for the Metro-East St. Louis area. Because the St. Louis area is currently attaining the one-hour ozone NAAQS, the USEPA granted the Metro-East St. Louis area an exemption from No_x Reasonably Available Control Technology (NO_x RACT) requirements. However, all NO_x emission controls previously adopted by the State must continue to be implemented.

This rule is effective May 12, 2003.

Copies of the documents relevant to this rule are available for inspection at the offices of the Environmental Protection Agency, Region 5, Regulation Development Section, Air Programs Branch (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604. The reference file number is IL 216.

For further information contact Edward Doty, Environmental Scientist, U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR-18J), Air Programs Branch, Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, doty.edward@epa.gov

United States Environmental Protection Agency Approves Illinois' New Source Review Amendments Under the Clean Air Act

On May 13, 2003 (68 Fed. Reg. 25547) the United States Environmental Protection Agency (USEPA) issued a notice of a direct final rule, and an identical proposed rule, to approve a requested revision to the Illinois State Implementation Plan (SIP) submitted on August 31, 1998. This SIP revision involves approval of amendments to the new source review portion of the air permit rules, as adopted by the Board in Docket R98-10, Amendments to Major Stationary Source Construction and Modification Rules (New Source Review Rules) 35 Ill. Adm. Code 203 (May 7, 1998).

Illinois' rules for nonattainment New Source Review (NSR), found at 35 Ill. Adm. Code 203, are designed to ensure that the construction of a major new source of air pollution or a large increase of emissions at an existing source does not interfere with the attainment demonstration and does not delay timely achievement of the ambient air quality standards. The Board's R98-10 modifications to Part 203 revises provisions for major modifications to stationary sources to align more closely with the Clean Air Act (CAA).

There are four substantive requirements imposed upon owners or operators of major projects, as set forth in part 203. The first of these is the imposition of Lowest Achievable Emission Rate or for certain existing sources, Best Available Control Technology on emissions of the nonattainment pollutant from the major project. Appropriate limits are established on a case-by-case basis in the permitting process. The second requirement is that the emissions of the nonattainment pollutant from a major project must be accompanied by emission offsets from other sources in the nonattainment area. This assures that the total emissions of the nonattainment pollutant will remain within the levels accommodated by the State's attainment demonstration. The third requirement is compliance by other sources in the State that are under common ownership or control with the person proposing the project. The final requirement is an analysis of alternatives to the particular project, to determine whether the benefits of the project outweigh the environmental and social costs.

The amendments to 35 Ill. Adm. Code 203 are intended to better track the language of sections 182(c)(6), (7), and (8) of the CAA, and to make other revisions consistent with this effort. These changes deal with how one determines whether a proposed change at a source is a major modification. Tracking the language of these sections

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more closely allows Illinois to better accommodate USEPA guidance on interpretation of these provisions of the CAA. In particular, Illinois has amended part 203 so that it does not conflict with USEPA's "Notice of Proposed Rulemaking, Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR)," 61 FR 38249 (July 23, 1996). One topic addressed by USEPA in this 1996 proposed rulemaking was sections 182(c)(6), (7) and (8) of the CAA (61 FR 38298-38302). When the USEPA finalizes its NSR rulemaking establishing guidance on these sections of the CAA, Illinois' NSR rules will have to be reevaluated. The Illinois EPA has committed to undertaking such a review of Illinois' NSR rules upon final USEPA NSR rulemaking.

USEPA adopted its approval as a direct final rule because it views this action as noncontroversial and anticipates no adverse comments. If USEPA receives no written adverse comments, USEPA will take no further action on the proposed rule. If USEPA receives written adverse comment, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

Comments on this action must be received by June 12, 2003 and should be sent to: Pamela Blakley, Chief, Permits and Grants Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

For further information contact Steve Marquardt, AR-18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 353-3214, e-mail at: marquardt.steve@epa.gov

United States Environmental Protection Agency Approves Illinois' Submissions To Prohibit Mixing Zones for Bioaccumulative Chemicals of Concern Pursuant to the Clean Water Act and the Water Quality Guidance for the Great Lakes System

On May 16, 2003 (68 Fed. Reg. 26616) the United States Environmental Protection Agency (USEPA) issued its approval of the submissions to prohibit mixing zones for Bioaccumulative Chemicals of Concern (BCC) pursuant to section 118(c) of the Clean Water Act and the Water Quality Guidance for the Great Lakes System for the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin. USEPA approved the rules adopted by the Board in R97-25 Conforming Amendments for the Great Lakes Initiative (December 18, 1997).

In a November 13, 2000 rulemaking USEPA amended the Final Water Quality Guidance for the Great Lakes System to Prohibit Mixing Zones for Bioaccumulative Chemicals of Concern, (codified in appendix F, procedure 3.C of 40 CFR part 132). As amended, the Guidance requires that States adopt mixing zone provisions that prohibit mixing zones for new discharges of BCCs effective immediately upon adoption of the provision by the State, and to prohibit mixing zones for existing discharges of BCCs after November 15, 2010, except where a mixing zone is determined by the State to be necessary to support water conservation measures and overall load reductions of BCCs or where a mixing zone is determined by the State to be necessary for technical or economic reasons. Under the amended Guidance, States were given two years to adopt and submit revised water quality standards conforming with the amended Guidance.

Illinois' regulations for mixing zones for BCCs are found at 35 Ill. Adm. Code 302.530: "Supplemental Mixing Provisions for Bioaccumulative Chemicals of Concern." Illinois' supplemental mixing provisions for BCCs at 302.530 prohibit mixing zones for new discharges of BCCs commencing on or after December 24, 1997, prohibit mixing zones for existing discharges after March 23, 2007 except where a continued mixing zone is necessary for water conservation that will result in an overall reduction in BCC mass loadings to the Lake Michigan Basin or where a mixing zone is determined to be necessary based on technical or economic grounds. USEPA reviewed Illinois' rules at 302.503 and determined that they are consistent with the requirements of the amended Guidance.

USEPA has conducted its review of the States' submissions to prohibit mixing zones for BCCs in accordance with the requirements of section 118(c)(2) of the CWA and 40 CFR part 132. Section 118 requires that States adopt policies, standards and procedures that are "consistent with" the Guidance. USEPA has interpreted the statutory term "consistent with" to mean "as protective as" the corresponding requirements of the Guidance. Thus, the Guidance gives States the flexibility to adopt requirements that are not the same as the Guidance, provided that the State's provisions afford at least as stringent a level of environmental protection as that provided by the corresponding provision of the Guidance. In making its evaluation, USEPA considered the language of each State's

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standards, policies and procedures, as well as any additional information provided by the State clarifying how it interprets or will implement its provisions. In this proceeding, USEPA has reviewed the States' submissions to determine their consistency only with respect to appendix F, procedure 3.C of 40 CFR part 132.

USEPA's approval is effective on May 16, 2003.

For further information contact Mery Jackson-Willis, U.S. EPA, Region 5, 77 West Jackson Blvd., Chicago, IL 60604, or telephone at (312) 353-3717. Copies of materials considered by EPA in its decision are available for review by appointment at U.S. EPA Region 5, 77 West Jackson Blvd, Chicago, IL 60604.

United States Environmental Protection Agency Adopts National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing Under the Clean Air Act

On May 22, 2003 (68 Fed. Reg. 27913) the United States Environmental Protection Agency (USEPA) adopted national emission standards for hazardous air pollutants (NESHAP) for new and existing semiconductor manufacturing operations located at major sources of emissions of hazardous air pollutants (HAP).

The final standards implement section 112(d) of the Clean Air Act (CAA), which requires the Administrator of USEPA to regulate emissions of HAP listed in section 112(b) of the CAA. The intent of the standards is to protect public health and the environment by requiring new and existing major sources to control emissions to the level attainable by implementing the maximum achievable control technology (MACT).

The primary HAP that will be controlled with this action includes hydrochloric acid, hydrogen fluoride, methanol, glycol ethers, and xylene. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, eye, and mucous membranes; effects on the central nervous system; liver and kidney damage; and, possibly cancer. USEPA did not have the type of current detailed data on each of the facilities and the people living around the facilities covered by the final rule for this source category that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and the potential for resultant health effects. Therefore, USEPA does not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, and the final rule reduces emissions, subsequent exposures will be reduced.

This rule is effective May 22, 2003.

For further information contact Mr. John Schaefer, U.S. EPA, Office of Air Quality Planning and Standards, Emission Standards Division (C504-05), Research Triangle Park, NC 27711, telephone number (919) 541-0296, e-mail address schaefer.john@epa.gov

Pursuant to Section 9.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(b) (2002)), once adopted by the USEPA, NESHAP rules are applicable and enforceable under the Act without further action by the Board.

United States Environmental Protection Agency Proposes Amendments Under the Clean Air Act to Control Emissions of Air Pollution From Nonroad Diesel Engines and Fuel

On May 23, 2003 (68 Fed. Reg. 28327) the United States Environmental Protection Agency (USEPA) proposed new emission standards for nonroad diesel engines and sulfur reductions in nonroad diesel fuel that it expects to dramatically reduce emissions attributed to nonroad diesel engines. This comprehensive national program will regulate nonroad diesel engines and diesel fuel as a system.

USEPA's action is focused on engines, used primarily in construction, agricultural, and industrial applications, that are projected to continue to contribute large amounts of particulate matter (PM), nitrogen oxides (NO_x), and sulfur oxides (SO_x), all of which contribute to serious public health problems in the United States. These problems include premature mortality, aggravation of respiratory and cardiovascular disease, aggravation of existing asthma, acute respiratory symptoms, chronic bronchitis, and decreased lung function.

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New engine standards will begin to take effect in the 2008 model year. These standards are based on the use of advanced exhaust emission control devices. USEPA estimates PM reductions of 95 percent, NO_x reductions of 90 percent, and the virtual elimination of SO_x from nonroad engines meeting the new standards. Nonroad diesel fuel sulfur reductions of up to 99 percent from existing levels will provide significant health benefits as well as facilitate the introduction of high-efficiency catalytic exhaust emission control devices as these devices are damaged by sulfur. These fuel controls would begin in mid-2007. The nonroad proposal is largely based on USEPA's 2007 highway diesel program.

To better ensure the benefits of the standards are realized in-use and throughout the useful life of these engines, USEPA is also proposing new test procedures, including not-to-exceed requirements, and related certification requirements. The proposal also includes provisions to facilitate the transition to the new engine and fuel standards and to encourage the early introduction of clean technologies and clean nonroad diesel fuel. USEPA also developed provisions for both the proposed engine and fuel programs designed to address small business considerations.

USEPA expects substantial benefits to public health and welfare and the environment through significant reductions in emissions of NO_x and PM, as well as nonmethane hydrocarbons, carbon monoxide, SO_x and air toxics. USEPA projects that by 2030, this program would reduce annual emissions of NO_x and PM by 827,000 and 127,000 tons, respectively. These emission reductions would prevent 9,600 premature deaths, over 8,300 hospitalizations, and almost a million work days lost, and other quantifiable benefits every year. All told the benefits of this rule would be approximately \$81 billion annually by 2030. Costs for both the engine and fuel requirements would be many times less, at approximately \$1.5 billion annually.

Send written comments on this proposal by August 20, 2003. Comments may be submitted by mail to: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. A-2001-28.

USEPA will hold a public hearing on the proposal in Chicago on June 12, 2003 at the Hyatt Regency O'Hare, 9300 W. Bryn Mawr Avenue, Rosemont, IL 60018. Additional hearings will be held in New York on June 10, 2003, and in Los Angeles on June 17, 2003.

For further information contact USEPA, Office of Transportation and Air Quality, Assessment and Standards Division hotline, (734) 214-4636, e-mail at asdinfo@epa.gov, or Carol Connell, (734) 214-4349; connell.carol@epa.gov.

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

Appellate Update

Fourth District Affirms Board In *ESG Watts, Inc. v. Illinois Environmental Protection Agency and Illinois Pollution Control Board*, Nos. 3-02-0329 and 4-02-0382 (cons.) (May 23, 2003) (PCB 01-63 and PCB 01-64 (cons.) and PCB 01-62)

In its May 23, 2003 22-page unpublished order under Supreme Court Rule 23 (155 Ill.2d R. 23), in *ESG Watts, Inc. v. Illinois Environmental Protection Agency and Illinois Pollution Control Board*, Nos. 3-02-0329 and 4-02-0382 (cons.) (May 23, 2003) the Fourth District Appellate Court affirmed the Board's interpretations of the Environmental Protection Act (Act) and the Board's nonhazardous waste landfill rules concerning issues of financial assurance for closure/post-closure care costs. *See* 415 ILCS 5/1 *et seq.* (2002) and 35 Ill. Adm Code 807.

For purposes of its review, the court consolidated appeals of two separate Board decisions issued April 4, 2002. These decisions related to Illinois Environmental Protection Agency (IEPA) determinations regarding the financial

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assurance obligations of ESG Watts, Inc. (Watts) for three landfills: the Sangamon Valley Landfill (whose ownership Watts transferred in February, 2002), the Taylor Ridge/Andalusia Landfill, and the Viola Landfill. Watts had previously supplied financial assurance for all three landfills in the form of one trust covering all three landfills. After transferring ownership of Sangamon Valley, Watts requested that the IEPA accept substitute financial assurance in lieu of the trust in the form of specific pollution liability insurance policies for the Sangamon Valley, Taylor/Ridge and Viola landfills, and to release excess financial assurance from the trust originally intended to cover any liabilities for Sangamon Valley. In PCB 01-62, the Board affirmed the IEPA's refusal to release financial assurance for any of the Watts facilities. In PCB 01-63 and 01-64 (cons.), the Board affirmed the IEPA's refusal to accept substitute financial assurance for the Taylor/Ridge and Viola landfills.

On review, the court addressed three primary issues of statutory and regulatory interpretation, all raised by Watts. (While the IEPA had attempted to raise other claims of error in the Board's decision, the court declined to address these issues, as the IEPA had not filed a cross appeal, citing People ex rel. Wray v. Brassard, 226 Ill. App. 3d 1007, 589 N.E.2d 1012 (1992).)

1) Approved Insurance Forms. The court upheld the Board's decision that the insurance policies proffered by Watts were improper because they were not on forms approved by the Illinois Department of Insurance, as Section 807.665(c) of the Board's rules require. 35 Ill. Adm. Code 807.665(c).

The issue of forms approved by another state's insurance department was not before the Board. Nevertheless, the court noted that the Board rule, last amended in 1985, does not reflect a 1996 amendment to Section 21.1(a.5) of the Act allowing financial assurance from insurers licensed by the insurance department of another state. 415 ILCS 5/21.1 (a.5) (2002).

2) Approval of Substitute Financial Assurance by Operation of Law. The court agreed with the Board that Watts was not a proper applicant when it proposed substitute financial assurance to the IEPA for Sangamon Valley Landfill. At the time of submittal, Watts had already sold the Sangamon Valley Landfill and was no longer the operator. The court affirmed the Board's decision that Watts' application was not approved by operation of law on the grounds that since the IEPA correctly refused to consider the application, its failure to take final action within 90 days did not result in approval of the request by operation of law under Section 39(a) of the Act. 415 ILCS 5/39(a) (2002).

In affirming the Board, the court applied the "clearly erroneous" standard of review to what it characterized as a "mixed question of law and fact", citing the Illinois Supreme Court decisions of City of Belvidere v. Illinois State Labor Relations Board, 181 Ill. Ed 191, 692 N. E. 2d 295 (1998) and AFM Messenger Services, Inc. v. Dept. of Employment Security, 198 Ill. Ed 380, 763 N. E. 2d 272 (2001). *But see* Illinois Environmental Protection Agency v. Jersey Sanitation, 784 N. E. 2d 867, 336 Ill. App. 3d 582 (4th Dist. 2003) in which this same court recently applied the "manifest weight of the evidence" standard to review and affirm the Board in a permit appeal. The court stated that the outcome would be no different if it reviewed the Board's decision *de novo*, the least deferential standard of review.

3) One Trust for All Three Landfills/Release of "Excess" Funds. A factual issue raised in these appeals was whether Watts had properly established one trust or three trusts. The court ruled that the Board's factual finding--that Watts had only one trust for all three landfills--was not against the manifest weight of the evidence. ESG Watts had attempted to create three separate trusts, one for each landfill, to be released sooner from its financial obligations. These attempts were found to be ineffective because the IEPA director had not executed the separate trust agreements, as required to modify the original single trust agreement. Regardless of the sale of the Sangamon Valley Landfill, the anticipated closure and post-closure care costs for the Taylor Ridge/Andalusia Landfill and the Viola Landfill (\$2.4 million) exceeded the amount of the single trust (\$1.4 million), *i.e.*, there simply were no "excess funds" as Watts had claimed. The court held that the Board's decision not to release any funds from the trust was "not against the manifest weight of the evidence or clearly erroneous."

Appellants Withdraw Three Appeals Prior To Consideration By the Courts on the Merits:

Illinois Environmental Protection Agency v. Charles Goodwin and Illinois Pollution Control Board, No. 4-02-0939 (Fourth Dist. May 28, 2003) (AC 02-17);

Gladys and David Knox v. Turriss Coal Co. et al., No. 4-03-0129 (Fourth Dist. April 4, 2003) (PCB 00-140);
and

Lockformer Co. v. Illinois Environmental Protection Agency and Illinois Pollution Control Board, No. 1-02-1273 (First Dist. April 8, 2003)(PCB 02-86).

The person who initiates an appeal of a Board decision—the appellant—has the right to withdraw that appeal prior to a court’s consideration of the merits. In the three above-captioned cases, the Board recently received summary orders of the courts dismissing these appeals at the appellant’s request. Consequently, the Board’s decision in each case stands.

Rule Update

Board Adopts Order Finding a Third Hearing Unnecessary Prior to First Notice in Proposed Amendments to Public Participation Rules in 35 Ill. Adm. Code 309 NPDES Permits and Permitting Procedures (R03-19)

On May 15, 2003, the Board adopted an order finding that a third hearing was unnecessary prior to its determination as to whether to proceed to first notice in Proposed Amendments to Public Participation Rules in 35 Ill. Adm. Code 309 NPDES Permits and Permitting Procedures (R03-19). The Board acted in response to a motion for a third hearing, filed on March 31, 2003 by the Illinois Environmental Regulatory Group (IERG), and supported by the Illinois Association of Wastewater Agencies (IAWA). The motion was opposed by the proponents of the rule change: the Environmental Law and Policy Center of the Midwest, the Illinois Chapter of the Sierra Club, and 225 citizen petitioners (the proponents of the rulemaking).

Both IERG and IAWA supported a third hearing so that the Board could hear testimony on proposed language changes suggested by the Illinois Environmental Protection Agency in its public comments. The Board stated that it would schedule a third hearing after the proposal is published in the *Illinois Register*, if the Board decides to move the rulemaking to first notice. The Board ordered the hearing officer in this rulemaking to establish a deadline for pre-first notice public comments so that the Board could consider additional public input on the proposal.

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

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

Board Actions

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Springfield, Illinois

Administrative Citations

AC 03-22	<u>County of Macon v. Macon County Landfill 2 & 3, Kevin Shaw, and Jeffery London</u> – The Board found that these Macon County respondents violated Section 21(o)(5) and (12) of the Act (415 ILCS 5/21(o)(5), (12) (2002)) and ordered respondents to pay a civil penalty of \$1,000.	7-0
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Decisions

PCB 00-111	<u>People of the State of Illinois v. R. Frietsch Company, Inc.</u> – In this air	7-0
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	enforcement action concerning sites located in Peoria and Tazewell Counties, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2002)), accepted a final stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$10,000, and to cease and desist from further violations.	A-E
PCB 00-165	<u>People of the State of Illinois v. David Cohen d/b/a Dave's Auto Repair and Service</u> – In this land enforcement action concerning a Lake County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2002)), accepted a final stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$5,000, and to cease and desist from further violations.	7-0 L-E
PCB 00-184	<u>People of the State of Illinois v. M&R Wrecking, Ltd. and Roderick Enterprises, Inc.</u> – In this air enforcement action concerning a Cook County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2002)), accepted a final stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$25,000, and to cease and desist from further violations.	7-0 A-E
PCB 01-83	<u>People of the State of Illinois v. Indiana Harbor Belt Railroad Company and CAN International, Inc.</u> – In this land enforcement action concerning a Cook County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2002)), accepted a final stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$20,000, and to cease and desist from further violations.	7-0 L-E
PCB 02-21	<u>People of the State of Illinois v. J&F Hauling, Inc.</u> – The Board entered an order requiring respondent to reimburse the Office of the Attorney General \$3,967.50 for attorney fees. This order follows the Board's interim order of June 6, 2002, which found that this respondent had violated Sections 21(a), (d)(1) and (2), (e), and (p)(1), and 55(a) of the Environmental Protection Act (415 ILCS 5/21(a),(d)(1) and (2),(e),(p)(1) and 55(a) (2000)) and 35 Ill. Adm. Code 722.111, 808.121, and 812.101(a) and assessed a penalty of \$60,000.	7-0 L-E
PCB 02-208	<u>Brian Finley, Local 3315 of the American Federation of State, County, and Municipal Employees (Cook County Public Defenders Assn.) and Named Others v. Acme Barrel Company, Inc. a/k/a Acme Barrel Company a/k/a/ IFCO Systems Chicago, Inc. and Others</u> – In this air enforcement action concerning a Cook County facility, the Board accepted a final stipulation and settlement agreement, and ordered the respondents to comply with the terms of the settlement agreement on or before May 31, 2003.	7-0 Citizens A-E

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Motions and Other Matters

PCB 95-180	<u>People of the State of Illinois v. Archer Daniels Midland Company</u> – The Board granted complainant’s motion to voluntarily dismiss counts I and II in this air enforcement action involving a Macon County facility.	7-0 A-E
PCB 99-51	<u>People of the State of Illinois v. Archer Daniels Midland Company</u> – The Board granted complainant’s motion for voluntary dismissal of this air enforcement action involving a Macon County facility.	7-0 A-E
PCB 01-150	<u>People of the State of Illinois v. Marc Development Corporation and Silver Glen Estates Homeowners’ Association, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Kane County facility, the Board ordered publication of the required newspaper notice.	7-0 W-E
PCB 01-153	<u>City of Salem v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a Marion County facility.	7-0 P-A, Land
PCB 02-11	<u>Doris Glave v. Brent Harris, Patty Harris, and Winds Chant Kennel, Inc.; Village of Grayslake v. Winds Chant Kennel, Inc.</u> – The Board granted complainant’s motion to amend the complaint adding Glenn F. Glave as a complainant.	7-0
PCB 02-32 (Cons.)		N-E
PCB 02-56	<u>People of the State of Illinois v. Chiquita Processed Foods, L.L.C.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Peoria County facility, the Board ordered publication of the required newspaper notice.	7-0 W-E
PCB 03-102	<u>U.S. Department of Energy v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no permit appeal was filed on behalf of this DuPage County facility.	7-0 P-A, RCRA
PCB 03-104	<u>Waste Management of Illinois, Inc. v. County Board of Kane County, Illinois</u> – The Board denied respondent’s motion for leave to file a petition to enforce ordinance and host community benefit agreement.	6-0 Karpel abstained P-C-F-S-R
PCB 03-107	<u>Willaredt Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Macon County facility.	7-0 UST Appeal
PCB 03-109	<u>Fred Sierzega v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no permit appeal was filed on behalf of this Cook County facility.	7-0 UST Appeal

Environmental Register – May 2003

PCB 03-113	<u>Clark Oil Station #1655 v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no permit appeal was filed on behalf of this Vermilion County facility.	7-0 UST Appeal
PCB 03-114	<u>Village of Karnak v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Pulaski County facility.	7-0 UST Appeal
PCB 03-125	<u>City of Kankakee v. County of Kankakee and County Board of Kankakee;</u>	7-0
PCB 03-133	<u>Merlin Karlock v. County of Kankakee and Kankakee County Board; Michael</u>	P-C-F-S-R
PCB 03-134	<u>Watson v. County of Kankakee and Kankakee County Board; Keith Runyon v.</u>	
PCB 03-135	<u>County of Kankakee and Kankakee County Board</u> – The Board denied the motion to overrule the hearing officer and affirmed the hearing officer’s rulings of April 24, 2003	
PCB 03-191	<u>People of the State of Illinois v. Community Landfill Company, Inc. and the City of Morris</u> – The Board accepted for hearing this land enforcement involving a Grundy County facility.	7-0 L-E
PCB 03-192	<u>Owens Oil Company (January 1, 1998 – June 30, 1998) v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-193	<u>Jim’s Shell & Marine v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Macoupin County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-194	<u>Owens Oil Company (March 1, 1997 – December 31, 1997) v. IEPA</u> - The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-195	<u>Owens Oil Company (May 1, 1999 – December 31, 1999) v. IEPA</u> - The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-196	<u>Owens Oil Company (December 1, 1999 – September 30, 2000) v. IEPA</u> - The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.	7-0 UST Appeal 90-Day Ext.

Environmental Register – May 2003

PCB 03-197	<u>Owens Oil Company (June 1, 1998 – May 31, 1999) v. IEPA</u> - The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-198	<u>Ted Harrison Oil Co., Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Cass County facility.	7-0 P-A, Land
PCB 03-199	<u>Thompson Service v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this McLean County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-200	<u>Earl’s Marathon v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-201	<u>Howard Warsaw v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Tazewell County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-202	<u>Consolidated Grain and Barge Co. (Cyclone with Baghouse) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Consolidated Grain and Barge located in Bureau County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	7-0 T-C
PCB 03-203	<u>Owens Oil Company (March 1, 1997 – May 31, 1997) v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-204	<u>Warren’s Service v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Mercer County facility.	7-0 UST Appeal 90-Day Ext.

Environmental Register – May 2003

PCB 03-205	<u>Jack's 66 Service Station v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Madison County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-206	<u>J&C Central, Inc. v. IEPA</u> - The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this DuPage County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-207	<u>Silvestri Paving Company (September 11, 2002 – November 19, 2002) v. IEPA</u> - The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-208	<u>Stanford Property v. IEPA</u> - The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Clay County facility.	7-0 UST Appeal 90-day Ext.
PCB 03-209	<u>Silvestri Paving Company (September 11, 2002 – November 20, 2002) v. IEPA</u> - The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.	7-0 UST Appeal 90-Day Ext.

May 15, 2003 Chicago, Illinois

Rulemakings

R03-19	<u>In the Matter of: Proposed Amendments to: Public Participation Rules in 35 Ill. Adm. Code Part 309 NPDES Permits and Permitting Procedures</u> – The Board granted the Illinois Environmental Regulatory Group's motion for leave to file a reply and the Illinois Association of Wastewater Agencies' motion for leave to file a response and reply instanter. The Board denied the motion for a third hearing and directed the hearing officer to issue an order specifying the deadline for closing the pre-first notice comment period. If the Board proceeds to first notice, at least one additional hearing will be held prior to moving to second notice with the proposed rule.	6-1 Johnson dissented R, Water
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Environmental Register – May 2003

Adjusted Standards

AS 00-5	<u>In the Matter of: Petition of The Ensign Bickford Company for an Adjusted Standard from 35 Ill. Adm. Code 237.103</u> – The Board denied petitioner’s motion to reconsider the Board’s March 20, 2003 opinion and order.	7-0 Air
AS 03-3	<u>In the Matter of: Argonne National Laboratory for an Adjusted Standard from 35 Ill. Adm. Code 218.182</u> – The Board dismissed this DuPage County facility’s petition for an adjusted standard from the Board’s air pollution control regulations for failure to timely publish notice of its request for an adjusted standard.	7-0 Air

Administrative Citations

AC 02-61	<u>IEPA v. Steve Koester (Champaign/ S&K Fence Company)</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Champaign County facility, the Board found respondent violated Section 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(3) (2002)) and ordered respondents to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motions to name S&K Fence Company as the sole respondent, to dismiss the alleged violation of Section 21(p)(1) and (p)(7) of the Act. 415 ILCS 5/21(p)(1), (p)(7) (2002), and to dismiss respondent’ petition for review.	7-0
AC 03-23	<u>County of Montgomery v. Robert Scott</u> – The Board found that this Montgomery County respondent violated Section 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2002)), and ordered respondent to pay a civil penalty of \$4,500.	6-1 Girard dissented
AC 03-24	<u>IEPA v. Arrowhead Tree Removal, Inc.</u> – The Board found that this Jersey County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2002)), and ordered respondent to pay a civil penalty of \$1,500.	7-0
AC 03-25	<u>IEPA v. Milton Hampton</u> – The Board found that this White County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2002)), and ordered respondent to pay a civil penalty of \$1,500.	7-0
AC 03-26	<u>IEPA v. Larry Beam</u> – The Board found that this Henry County respondent violated Section 21(p)(1), (p)(2), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(2), (p)(7) (2002)), and ordered respondent to pay a civil penalty of \$9,000.	6-1 Girard dissented
AC 03-27	<u>IEPA v. Vince Harvey</u> – The Board accepted for hearing this petition for review of an administrative citation against this Henry County respondent.	7-0

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Motions and Other Matters

PCB 97-103	<u>People of the State of Illinois v. State Oil Company, William Anest an individual f/d/b/a S&S Petroleum Products, Charles Abraham an individual, Josephine Abraham an individual, and Millstream Service, Inc.</u> – The Board denied complainant’s motion to modify the Board’s March 20, 2003. But, the Board granted respondents’ motions for stay of the order regarding payment of a penalty pending outcome of their appeal in the Second District Appellate Court.	7-0 L&W-E
PCB 00-138	<u>Granite City Sheet Metal v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a Madison County facility.	7-0 P-A, Land
PCB 00-141	<u>E.G. Vogt Oil Company, Inc. v. IEPA</u> – The Board granted petitioner’s motion for continuance of stay for an additional 60 days, until July 14, 2003.	7-0 UST Appeal
PCB 02-77	<u>People of the State of Illinois v. Millenium Recycling & Solid Waste Consultants, Inc., Sherri Clementi individually and as President of Millenium Recycling & Solid Waste Consultants, Inc.</u> – The Board granted complainant’s motion for leave to file an amended complaint.	7-0 L-E
PCB 02-129	<u>Sports Aircraft, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a DuPage County facility.	7-0 UST Appeal
PCB 03-96	<u>Martin E. & Kathy L. Geber v. Clayton Moushon and Carri Scharf Trucking and Materials</u> – The Board granted the motion of respondent Clayton Moushon, dismissing him from this case, but denied the motion to dismiss of respondent Carri Scharf Trucking and Materials. The Board also granted in part and denied in part the Gebers’ motion for leave to file an amended complaint. Specifically, the Board granted the Gebers’ motion to file an amended complaint to add Carri Scharf Materials Company and East Side Materials, L.L.C. as respondents. However, the Board denied the motion to add Farmdale Valley Dev. Inc. and the United States Army Corps of Engineers as respondents.	7-0 Citizens N-E
PCB 03-112	<u>2F, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Williamson County facility.	7-0 UST Appeal
PCB 03-116	<u>William Breuer v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this Sangamon County facility.	7-0 UST Appeal
PCB 03-118	<u>Dalee Oil Company (July 1, 2001 – September 30, 2001) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility and granted the motions to consolidate this matter with PCB 03-119 and PCB 03-150.	7-0 UST Appeal

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PCB 03-119	<u>Dalee Oil Company (September 1, 2001 – November 30, 2001) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility and granted the motions to consolidate this matter with PCB 03-118 and PCB 03-150.	7-0 UST Appeal
PCB 03-146	<u>North Shore Sanitary District v. IEPA</u> – The Board granted respondent’s motion to withdraw its motion to reconsider the Boards March 20, 2003 order. The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a Lake County facility.	7-0 P-A, Air
PCB 03-150	<u>Dalee Oil Company (January 1, 2001 – August 31, 2002)</u> – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility and granted the motions to consolidate this matter with PCB 03-118 and PCB 03-119.	7-0 UST Appeal
PCB 03-212	<u>Wareco Services, Inc. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Knox County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-213	<u>Winslow Boco v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Stephenson County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-214	<u>Illinois Ayers Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cass County facility.	7-0 UST Appeal
PCB 03-215	<u>People of the State of Illinois v. Huck Store Fixture Company, Inc.</u> – The Board accepted for hearing this air enforcement action involving an Adams County facility.	7-0 A-E
PCB 03-216	<u>Bulk Petroleum Corporation v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.	7-0 UST Appeal 90-Day Ext.

New Cases

May 1, 2003 Board Meeting

03-191 People of the State of Illinois v. Community Landfill Company, Inc. and the City of Morris – The Board accepted for hearing this land enforcement involving a Grundy County facility.

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- 03-192** Owens Oil Company (January 1, 1998 – June 30, 1998) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.
- 03-193** Jim’s Shell & Marine v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Macoupin County facility.
- 03-194** Owens Oil Company (March 1, 1997 – December 31, 1997) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.
- 03-195** Owens Oil Company (May 1, 1999 – December 31, 1999) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.
- 03-196** Owens Oil Company (December 1, 1999 – September 30, 2000) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.
- 03-197** Owens Oil Company (June 1, 1998 – May 31, 1999) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.
- 03-198** Ted Harrison Oil Co., Inc. v. IEPA – The Board accepted for hearing this permit appeal involving a Cass County facility.
- 03-199** Thompson Service v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this McLean County facility.
- 03-200** Earl’s Marathon v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.
- 03-201** Howard Warsaw v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Tazewell County facility.
- 03-202** Consolidated Grain and Barge Co. (Cyclone with Baghouse) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Consolidated Grain and Barge located in Bureau County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).
- 03-203** Owens Oil Company (March 1, 1997 – May 31, 1997) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility.
- 03-204** Warren’s Service v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Mercer County facility.
- 03-205** Jack’s 66 Service Station v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Madison County facility.
- 03-206** J&C Central, Inc. v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this DuPage County facility.
- 03-207** Silvestri Paving Company (September 11, 2002 – November 19, 2002) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.
- 03-208** Stanford Property v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Clay County facility.
- 03-209** Silvestri Paving Company (September 11, 2002 – November 20, 2002) v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.

May 15, 2003 Board Meeting

- 03-210** Solid Waste Agency of Northern Cook County v. City of Des Plaines, Illinois and Disposal Management Systems, Inc. – No action taken.

Environmental Register – May 2003

03-211 Mark and Cynthia Heywood v. Dan and Darleen Sheehan – The Board held for a later duplicative/frivolous determination this citizen’s noise enforcement action involving a Cook County facility.

03-212 Wareco Services, Inc. v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Knox County facility.

03-213 Winslow Boco v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Stephenson County facility.

03-214 Illinois Ayers Oil Company v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Cass County facility.

03-215 People of the State of Illinois v. Huck Store Fixture Company, Inc. – The Board accepted for hearing this air enforcement action involving an Adams County facility.

03-216 Bulk Petroleum Corporation v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility.

AC 03-028 IEPA v. James L. Quirin and C. Grantham Company – The Board accepted an administrative citation against these St. Clair County respondents.

AC 03-029 IEPA v. Robert A. Power, Jr. and Susan L. Power – The Board accepted an administrative citation against these Sangamon County respondents.

Calendar

6/3/03 1:00 PM	AC 03-011	City of Chicago Department of Environment v. City Wide Disposal Inc.	The James R. Thompson Center, Room 11-512 West Randolph Street Chicago
6/3/03 11:00 AM	PCB 01-167	People of the State of Illinois v. ESG Watts, Inc. (Taylor Ridge Landfill)	County Building 3rd Floor Conference Room 1504 Third Avenue Rock Island, IL
6/4/03 9:00 AM	PCB 01-167	People of the State of Illinois v. ESG Watts, Inc. (Taylor Ridge Landfill)	County Building 3rd Floor Conference Room 1504 Third Avenue Rock Island, IL
6/5/03 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 West Randolph St./Chicago Hearing Room 403 600 South Second St./Springfield
6/10/03 9:00 AM	PCB 02-162	People of the State of Illinois v. Fox Valley Dry Wall, Inc.	Kane County Courthouse, Room 140 100 South Third Street Geneva
6/19/03 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		James R. Thompson Center Conference Room 9-040 100 West Randolph Street Chicago
7/2/03 9:00 AM	PCB 03-002	Todd's Service Station v. IEPA	Illinois Pollution Control Board, Room 403 600 S. Second Street Springfield, IL

Environmental Register – May 2003

7/10/03 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		Illinois Pollution Control Board Hearing Room 403 600 South Second Street Springfield
7/15/03 10:00 AM	PCB 03-002	Todd's Service Station v. IEPA	Hearing in City Hall Council Chambers 400 Margaret Street Pekin, IL
7/24/03 11:00 AM	<u>ILLINOIS POLLUTION CONTROL BOARD MEETING</u>		James R. Thompson Center Conference Room 9-040 100 West Randolph Street Chicago

Notice

The Illinois Environmental Protection Agency (IEPA) proposes to list Fogelpole Cave, which is a dedicated nature preserve (DNP), and the area that contributes groundwater to the DNP, as Class III: Special Resource Groundwater. Fogelpole Cave is located in the southern part of Monroe County, Illinois, approximately three miles north of Renault, Illinois. The area contributing groundwater to the DNP, is an irregularly shaped 5.13 square mile (3,283 acre) tract of land located to the north and west of the DNP. On April 4, 2003, the Illinois Nature Preserves Commission submitted a petition to designate Fogelpole Cave as Class III: Special Resource Groundwater. This is the second petition of this type since the Pollution Control Board adopted the groundwater quality standards regulation in 1991.

Under the authority of 35 Ill. Adm. Code 620.230, Class III: Special Resource Groundwater can be established for: groundwater that is demonstrably unique (*e.g.* irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified; for groundwater that is vital for a particularly sensitive ecological system; or groundwater contributing to a DNP that has been listed by the IEPA. The IEPA is required to review a written request to list a DNP, and upon confirmation of the technical adequacy, publish the listing of the DNP in the *Environmental Register* for a 45-day public comment period. Within 60 days after the close of the comment period, the Illinois EPA is required to publish a final listing in the *Environmental Register*.

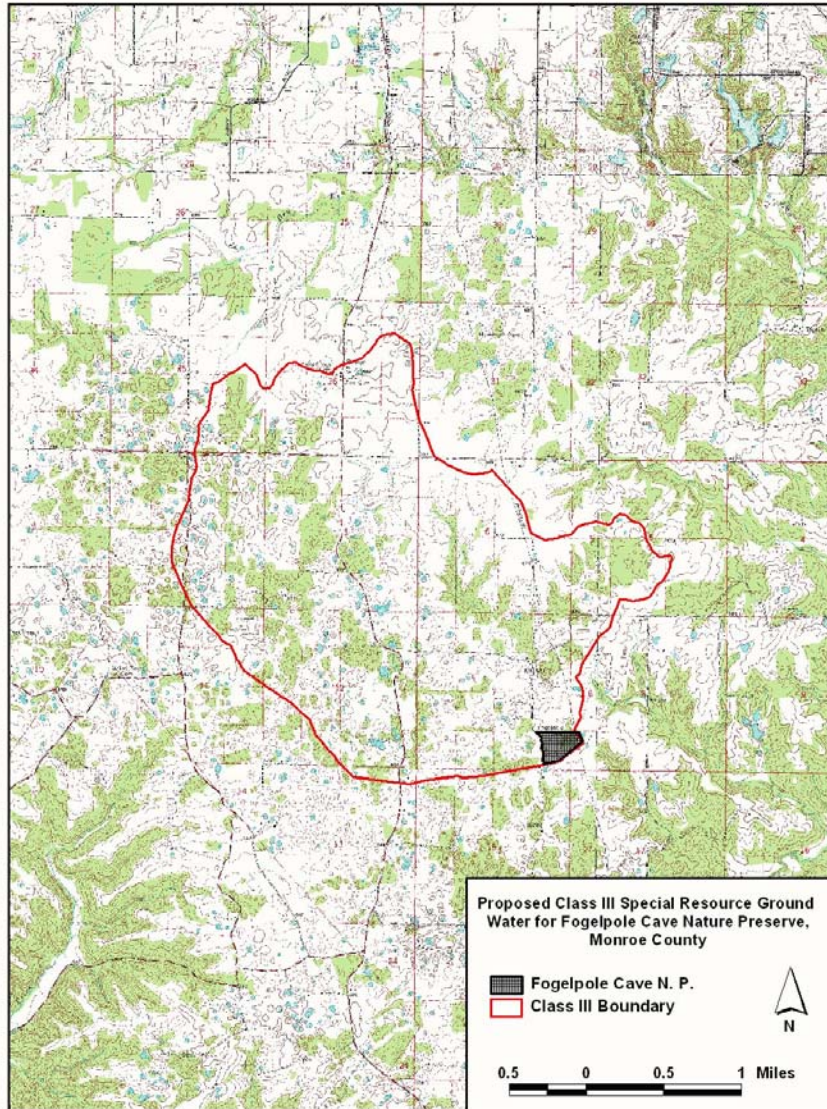
The Groundwater Section, of the Bureau of Water, at the Illinois EPA has completed the review required according to the criteria specified at Subsection 620.230(b)(1), and finds the petition to be technically adequate.

Questions regarding the proposal and requests for hard copies of the petition should be directed to:

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

The Illinois EPA will consider public comments received on or before July 25, 2003.

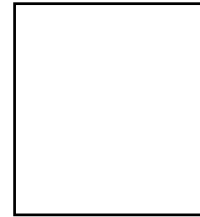
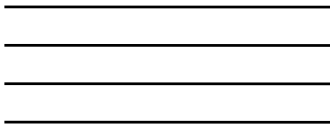
Exhibit 1: Map of proposed Fogelpole Cave Nature Preserve Class III Special Resource Groundwater area projected on a USGS Topographic map. Map is based on the delineation of the groundwater system by Aley, Moss and Aley (2000)



The Illinois Pollution Control Board is an independent seven-member board that adopts environmental control standards, rules on enforcement actions, and other environmental disputes for the State of Illinois.

The Environmental Register is published monthly by the Board, and contains updates on rulemakings, descriptions of final decisions, the Board's hearing calendar, and other environmental law information.

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Illinois Pollution Control Board
Environmental Register Coordinator
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Springfield, Illinois 62704