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# Environmental Register

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## Letter from the Chairman

The excellent reputation of the Board throughout the years is the result of teamwork by an exceptional group of people. The Board's Clerk, Dorothy M. Gunn, and the Board's Executive Coordinator, Sandra L. Wiley, have played large roles in the success of the Board over the years. This month, all four Board Members join in signing this letter to salute the April 30, 2007 retirement of Dorothy and Sandy.

Dorothy has served as the Board's Clerk since 1984. In that role, she acts as official custodian of the Board's records and also prepares and certifies records for appeals. Dorothy first joined the Board in 1975 as a staff secretary and later served as private secretary to the late Irvin G. Goodman during his tenure as a Board member and as a staff accounting assistant.

Dorothy is an active member of Divine Mercy Seat Missionary Baptist Church in Harvey, which she serves as secretary of the Sunday school. Dorothy is widely recognized for her beautiful singing voice and also serves as a soloist for and a member of the church's choir. Dorothy and her husband, Kenneth, are loving parents to Tracey and Dartagnon, grandparents to Kyla and Bianca, and great-grandparents to Jaleel and Jalen.

Dorothy's cheerful and conscientious efforts have enabled the Board to perform its work efficiently and accurately. With all of the patience and understanding she has shown to the Board's members and staff and to those who deal with the Board in various capacities, Ms. Gunn has earned the appreciation, respect, and friendship of countless persons.

Sandy Wiley joined the Board in 1972 and in 1993 became Executive Coordinator overseeing operations of the Board's Chicago office. During her service at the Board, Sandy has filled various roles when needed, including financial officer, personnel officer, and supply officer. For many years, she frequently testified at Illinois House and Senate Budget Committee hearings on behalf of the Board. Sandy was named Administrative Coordinator of the Illinois Environmental Regulatory Review Commission, which was created in 1999 to improve the state's environmental regulations. Sandy began state service in 1963 as an office manager at the Chicago campus of the University of Illinois and later joined the Illinois Sesquicentennial Commission as an accounting and office manager.

Throughout the time of her state service, Sandy was involved in a range of community activities, including the Girl Scouts of America and various leadership roles in her church. Sandy is a loving mother to Angelo "Tony" Wiley and grandmother to Alexander "Alex" Wiley.

Sandy has endeared herself to Board members and staff both by providing excellent advice and information and through her frequent expressions of generosity, compassion, and support. With her spirit of cooperation and her lively sense of humor, Sandy has won the respect and affection of her colleagues and countless persons who have conducted business with the Board since 1972.

We are grateful for the knowledge and experience that Dorothy and Sandy brought to the Board. We extend our fond best wishes for a long, happy, and very well-deserved retirement.

Sincerely,



Dr. G. Tanner Girard



Thomas E. Johnson



Nicholas J. Melas



Andrea S. Moore

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## Federal Update

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### **United States Environmental Protection Agency Adopts Amendments to the Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act**

On March 26, 2007 (72 Fed. Reg. 14219) the United States Environmental Protection Agency (USEPA) adopted amended analytical methods for biological pollutants in wastewater and sewage sludge. This rule modifies the USEPA's guidelines that establish approved bacterial testing procedures for analysis and sampling under the Clean Water Act.

USEPA proposed these changes for public comment on August 16, 2005 (70 Fed. Reg. 48255). The changes include approval for new methods for monitoring microbial pollutants in wastewater and sewage sludge, including USEPA methods, vendor-developed methods and methods developed by voluntary consensus bodies (VCSB) as well as updated versions of currently approved methods. The addition of new and updated methods to the wastewater regulations provides increased flexibility to the regulated community and laboratories in the selection of analytical methods. In addition, EPA made technical, non-substantive corrections.

This regulation is effective April 25, 2007.

For information regarding the changes to wastewater regulations, contact Robin K. Oshiro, Engineering and Analysis Division (4303T), USEPA Office of Science and Technology, 1200 Pennsylvania Ave., NW., Washington, DC 20460, 202-566-1075, e-mail: [oshiro.robin@epa.gov](mailto:oshiro.robin@epa.gov).

The Board will include any necessary amendments to Board rules resulting from this federal action in a future wastewater pretreatment identical in substance rulemaking pursuant to Section 7.2 13, and 13.3, of the Environmental Protection Act (415 ILCS 5/7.2 13, and 13.3 (2006)).

## Rule Update

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### **Board Adopts Second Notice Opinion and Order in Organic Material Emission Standards And Limitations for the Chicago And Metro-East Areas: Proposed Amendments to 35 Ill. Code 218 and 219 (R06-21)**

On March 1, 2007, the Board adopted a second notice opinion and order in Organic Material Emission Standards And Limitations for the Chicago And Metro-East Areas: Proposed Amendments to 35 Ill. Code 218 and 219 (R06-21). The Board made only minor changes to the proposed internal effective dates in the rulemaking as published in the *Illinois Register*. See 30 Ill. Reg. 15867 and 15892 (October 6, 2006). The Board sent this rulemaking, as required by the

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Illinois Administrative Procedure Act (5 ILCS 100/1-1 *et seq.* (2006)), to the Joint Committee on Administrative Rules (JCAR) for review at its April 18, 2007 meeting.

The rulemaking, based on a proposal filed by the Illinois Environmental Protection Agency (IEPA) on December 22, 2005, seeks to amend the Board's volatile organic material (VOM) rules at 35 Ill. Adm. Code 218 and 219 to allow for the use of add-on controls as a compliance option for operations using cold cleaning solvent degreasing. The proposed amendments affect cold cleaning degreasing operations located in the Chicago and Metro-East ozone nonattainment areas.

The proposed amendments would allow the use of add-on controls as an alternative to using solvents with vapor pressure of 1.0 millimeters of mercury (mmHg) or less. Additionally, the proposal would allow the use of an equivalent alternative control plan to comply with the control measure requirements. The proposed amendments include testing procedures and recordkeeping requirements for add-on controls and equivalent alternative controls.

The Board revised the internal timelines that were proposed in the rulemaking to match the Board's current anticipated adoption schedule for the rulemaking; the dates were changed from November 30, 2006, to May 30, 2007, and from March 1, 2007, to August 31, 2007. These dates reflect the effective dates for the requirements (May 30, 2007), and the date by which existing add-on controls must be tested for compliance with the proposed standards (August 31, 2007).

Amendments were also proposed to the "paper coating" note at Appendix H in Part 218 to ensure consistency with the already-amended "paper coating" note at Section 218.204(c). Identical amendments were also proposed to the "paper coating" note at Appendix H in Part 219 to ensure consistency with the already-amended "paper coating" note at Section 219.204(c).

The Board held hearings in this rulemaking on April 19, 2006 in Chicago, and on May 17, 2006 in Edwardsville.

Copies of the Board's opinion and order in R06-21 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](http://www.ipcb.state.il.us).

For additional information contact Erin Conley at 217/782-2471 or by email at [conley@ipcb.state.il.us](mailto:conley@ipcb.state.il.us).

## **Appellate Update**

**In a Case Known as "Town and Country I", Illinois Supreme Court Reverses A Decision of Third District Appellate Court Reinstating Grant of Local Siting Approval (and Reversing the Board) in Town & Country Utilities, Inc., et al. v. Illinois Pollution Control Board, et al., Nos. 101619, 101652 (March 22, 2007) (affirming Board ruling in PCB 03-31, PCB 03-33, PCB 03-35 (cons.)(January 1, 2003))**

On March 22, 2007, the Supreme Court of Illinois filed an opinion confirming the decision of the Board in a landfill siting appeal, captioned Town & Country Utilities, Inc., et al. v. Illinois Pollution Control Board, et al., Nos. 101619, 101652 (March 22, 2007) (hereinafter "Town & Country I (Ill. S. Ct. 2007)"). In so doing, the Supreme Court reversed the September 7, 2005 order issued by the Appellate Court for the Third District under Supreme Court Rule 23 (155 Ill.2d R.23) in Town & Country Utilities, Inc. and Kankakee Regional Landfill, LLC v. Illinois Pollution Control Board, County of Kankakee, Edward D. Smith as State's Attorney of Kankakee County, the City of Kankakee, Illinois City Council, Byron Sandberg, and Waste Management of Illinois, Inc., No. 3-03-0025 (September 7, 2005)(petitions for rehearing denied October 19, 2005) (hereinafter "Town & Country I (Third Dist. 2005).") In that order, the Third District had reinstated the grant by the City of Kankakee (City) of siting approval to the 2002 application for a new landfill make by Town and Country Utilities, Inc. and Kankakee Regional Landfill (collectively, Town and Country). The Board had reversed the City's decision, finding that it was against the manifest weight of the evidence.

Justice Fitzgerald authored the Illinois Supreme Court opinion, in which Chief Justice Thomas and Justices Freeman, Kilbride, Garman, Karmeier, and Burke concurred. The Court has advised the parties that the mandate in this case will issue on April 26, 2007, unless a petition for rehearing is filed by April 12, 2007.

This case is known as the "Town & Country I" appeal. It concerns a siting application filed in 2002 by Town and Country concerning a proposal under Section 39.2 of the Environmental Protection Act (Act), 415 ILCS 5/39.2 (2004), to site a new municipal solid waste landfill on approximately 400 acres in the City. The Supreme Court's decision in Town & Country I reaffirms that Section 40.1 of the Act requires the courts to review the Board's decision, not that of the local government, to determine whether the Board's decision is against the manifest weight of the evidence. The Supreme Court's decision is expected to impact the Third District's decision on reconsideration concerning the related and still-pending "Town & Country II" appeal, described at the conclusion of the Town & Country I discussion.

### **Prior History In Town & Country I**

#### **The Board's Decision**

The Board decided consolidated, third-party appeals concerning the City's approval of Town and Country's proposed landfill on January 2, 2003. County of Kankakee and Edward D. Smith, States Attorney of Kankakee County v. City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; Byron Sandberg v. City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; Waste Management of Illinois v. City of Kankakee, Illinois, City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C., PCB 03-31, PCB 03-33, PCB 03-35 (cons.). (January 1, 2003) (hereinafter Town and Country I, PCB 03-31, PCB 03-33, PCB 03-35 (cons.)). Petitioners variously alleged that 1) the City lacked jurisdiction over the siting application due to alleged deficiencies in Town and Country's service of notice of the application as required by Section 39.2(b) of the Act; 2) the procedures used by the City to assess the application were fundamentally unfair; and 3) that the City's decision was against the manifest weight of the evidence as to three of the nine siting criteria listed in Section 39.2 of the Act.

In its July 9, 2003 opinion and order, for reasons that will not be summarized here, the Board found that the City did have jurisdiction over the application and that its procedures were fundamentally fair. The Board affirmed the City's decisions that the applicant had satisfied two out of the three challenged criteria: that the operation plan minimized danger to the surrounding area, and that the facility was consistent with the County's solid waste management plan. 415 ILCS 5/39.2 (v) and (viii) (2004).

But, the Board reversed the City of Kankakee's decision that Town and Country had satisfied criterion ii of Section 39.2(a): that the proposed "facility is so designed, located and proposed to be operated that the public health, safety, and welfare will be protected". 415 ILCS 5/39.2(a)(ii)(2004). The Board found an absence of evidence in the local siting record addressing the potential vertical flow of contaminants at the site or the prospect that groundwater under the landfill is an aquifer rather than the assumed aquitard. The Board therefore held that the City's decision on criterion ii was against the manifest weight of the evidence, concluding in summary that

Town & Country failed to address research indicating that the Silurian dolomite, upon which the proposed landfill would rest, is an aquifer. Town & Country also failed to consider well log data with a 2-mile radius of the site that indicated area wells draw water from the Silurian dolomite aquifer. The evidence belies the findings of the tests on the single boring taken from the 236-acre waste footprint. Town & Country's scientifically unjustified assumption regarding the identity of the Silurian dolomite resulted in the use of inaccurate information in its modeling and groundwater impact evaluation. Consequently,

Town & Country did not present sufficient details to show that the landfill was designed, located and proposed to be operated to protect public health, safety, and welfare. The evidence Town & Country did present was unreliable. Therefore, the Board finds it is clearly evident that the City's determination that Town & Country met the requirements of criterion (ii) of Section 39.2 of the Act is against the manifest weight of the evidence. Town and Country I, PCB 03-31, PCB 03-33, PCB 03-35 (cons.), slip op. at 27-28.

### **The Third District's Order**

On September 7, 2005, the Third District Appellate Court reversed the Board, reinstating the City's grant of siting approval. After a recitation of the facts of the case Town and Country I (Third Dist.), slip op. at 1-4, the Third District's order first addresses the issue of fundamental fairness. The appellate court first noted that it held in Land & Lakes v. Pollution Control Board, 319 Ill. App. 3d 41, 48 (2000) that "Board determinations that the siting hearing proceedings were fundamentally fair are subject to de novo review. But, the Court went on to acknowledge the Board's argument that this analysis was no longer effective since the decision of the Illinois Supreme Court in AFM Messenger, Inc. v. Dept. of Employment Security, 198 Ill. 2d 380 (2001), where the more deferential "clearly erroneous" standard was applied to a mixed question of law and fact. The court then states that "[p]ursuant to AFM Messenger, we will affirm the Board's decision unless it is against the manifest weight of the evidence." Town and Country I (Third Dist.), slip op. at 5. The court considered arguments that several circumstances caused fundamental unfairness, including various alleged deficiencies in the conduct of the hearing, and ex parte contacts. The court concluded that "[o]n the issue of fundamental fairness, we find no basis upon which to overturn the decision of the [City] Council." *Id.*, slip op. at 5. The court begins its analysis of the issues involving the statutory criteria by citing a statement in Concerned Adjoining Owners v. Pollution Control Board, 288 Ill. App. 3d 565, 576. (1997) that "[o]n review, the court is limited to a determination of whether the siting authority's decision was contrary to the manifest weight of the evidence." Town and Country I (Third Dist.), slip op. at 7-8. The court then concluded that "[I]t is clear by this statement that the court is not reviewing the decision of the PCB." *Id.*, slip op. at 8. In a lengthy footnote following this remark, the court suggests

There is some dispute as to the standard of review an appellate court will apply to the ruling of the PCB. *See*, Turlek v. Pollution Control Board, 274 Ill. App. 3d 244, 249 (1995) ("On review, we are to determine whether the Board's decision is against the manifest weight of the evidence."); File v. D&L Landfill, Inc., 219 Ill. App. 3d 897, 901 (1991) ("Standard of review to be exercised by the [PCB] and this court is whether, respectively, the decision of the county board and [PCB] are contrary to the manifest weight of the evidence."). But see Concerned Adjoining Owners v. Pollution Control Board, 288 Ill. App. 3d 565 (1997); Waste Management of Illinois v. Pollution Control Board, 160 Ill. App. 3d 434 (1987); City of Rockford v. Pollution Control Board, 125 Ill. App. 3d 384 (1984). The manifest weight of the evidence standard of review is applicable to a tribunal with an adjudicatory function that is called upon to weigh evidence. It is not applicable to a tribunal which reviews the decision of an adjudicatory body. If an appellate court were to review both the local body and the PCB under manifest weight of the evidence standard of review, it might have to affirm two contradictory decision (sic). A situation could arise where both the decision of the local body and the decision of the PCB were each supported by evidence. Indeed the hallmark of the manifest weight of the evidence standard of review is that the evidence could support two opposite conclusions, and only when an opposite conclusion to that reached by the adjudicatory body is clearly

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apparent is the decision against the manifest weight of the evidence. Town and Country I (Third Dist.), slip op. at 8, n.1.

In reviewing the parties' arguments as to the statutory criteria, the appellate court does not evaluate any of the Board's rationale for decision. Instead, the court appears to go on to review the City's decision directly, using a "manifest weight of the evidence" standard, as if there were no Board decision.

As to criterion two, the court stated

In the instant matter, extensive expert testimony came before the [City] Council, both in favor of and in opposition to the proposed site. Ultimately, a dispute developed over whether the site was an aquifer or an aquitard, and the public health consequences of the answer. On appeal, the parties expend much effort to explain why one expert or the other was more credible and ask this court to actually determine whether the site was an aquifer or an aquitard. In the final analysis, however, the decision belongs to the [City] Council, and nothing in the record would support a conclusion that the Council's finding was against the manifest weight of the evidence. Town and Country I (Third Dist.), slip op. at 9-10.

The court reached a similar result as to criterion 8, finding that "it cannot be said that the conclusion of the Council on this criterion [consistency with the county solid waste management plan] was against the manifest weight of the evidence." Id., slip op. at 9-10.

The ultimate conclusion of the court then was that the City's decision approving siting was fundamentally fair and not contrary to the manifest weight of the evidence. Accordingly, the order of the Illinois Pollution Control Board overturning the decision of the city council is reversed and the decision of the city council is reinstated. Id., slip op. at 11.

### Dissenting opinion.

In his short, written dissent, Justice Barry observes that the appeal was brought under Section 41(b) of the Act. Under that section,

any final order of the Board shall be based solely on the evidence in the record of the particular proceeding involved, and any such final order for permit appeals shall be invalid if it is against the manifest weight of the evidence. 415 ILCS 5/41(b)(West 2000). As recognized by our Supreme Court in Environmental Protection Agency v. Pollution Control Board (115 Ill. 2d 65, 70, 503 N.E. 2d 343, 345-46 (1986)), it is the duty of this court, under the plain language of section 41(b), to evaluate all the evidence in the record to determine if the Pollution Control Board's findings were contrary to the manifest weight of the evidence.

### **Parties' Post-Decision Filings.**

On September 28, 2005, the Board filed a petition for rehearing with the Third District, requesting that it revisit the issue of the standard of review to be applied consistent with Section 41(b) of the Act. As previously stated, other parties also requested further review of this and other issues. On October 19, 2005, the Third District denied all petitions for rehearing, as well as the County's motion for publication of the Rule 23 order.

### **The Illinois Supreme Court Ruling in Town & Country I**

The Illinois Supreme Court granted the petitions for leave to appeal of the Board and the County on March 29, 2006. Oral argument was held on January 10, 2007. The Supreme Court found that the case before it presented two primary issues: (1) whether the appellate court reviews the Board's decision or the local siting authority's decision; and (2) if it is the Board's decision that is

to be judicially reviewed, whether the Board decision on criterion (ii) is against the manifest weight of the evidence.

Judicial Review Must Be of Board Decision, Not City Decision

At the outset of the opinion, the court states the "central issue" in the case: "whether we must apply the manifest weight of the evidence standard of review to the City's decision or to that of the Board." Town & Country I (Ill. S. Ct. 2007), slip op. at 2. The court then provides background on the Board, the Act, and the pollution control facility siting scheme, noting that that "authority of the Board finds its roots in the Illinois Constitution of 1970" and that the "legislature established the Illinois Environmental Protection Agency . . . and the independent Pollution Control Board . . . to implement the Act." Id.

The court also notes that Town & Country filed its siting application with the City on March 13, 2002, proposing a new municipal solid waste landfill of approximately 400 acres with a 236-acre waste footprint. Town & Country I (Ill. S. Ct. 2007), slip op. at 4. The court states that the "salient evidentiary issue presented by this appeal concerns the potential groundwater impact of the proposed landfill. \*\*\* The parties disputed whether the geology underneath the proposed site was an 'aquifer' or an 'aquitard.' An aquifer is a geologic formation that permits the flow of water. An aquitard is a geologic formation that retards the flow of water." Id.

The court quotes liberally from the Board's opinion concerning criterion (ii). Id. at 7-8. For example, the court states: "the Board held the City's conclusion that the 'design of the landfill will protect the public health, safety, and welfare is against the manifest weight of the evidence because \* \* \* the landfill is located on an aquifer and T&C's design does not adequately address that fact.' The Board concluded on criterion (ii): 'Town & Country failed to address research indicating that the Silurian dolomite, upon which the proposed landfill would rest, is an aquifer.'" Id. at 7.

The court dismisses the notion that there is any "purported split in authority in the appellate court" over whether the court should review the Board's decision or the decision of the local siting authority. Town & Country I (Ill. S. Ct. 2007), slip op. at 9-10. Instead, relying on familiar rules of statutory construction, the court interprets Sections 41(a) and (b) of the Act as providing for judicial review of the Board's final decision. That final Board decision in a landfill siting appeal, the court rules, constitutes a "permit appeal" decision, under the Act's Title X, subject to the "manifest weight of the evidence" standard of review. Id. at 11-12. The court emphasizes that Section 40.1(b) "grants the Board an important role in the permit process. Section 40.1 requires the Board's technically qualified members to conduct a 'hearing' . . ." Id. at 12. The court concludes: "Because the legislature has deemed the decision of the Board, rather than the decision of the locality, to be 'final' in section 41, local decisions cannot be subject to direct judicial review within the provisions of section 41 . . . The appellate court may then review the Board's decision concerning the petition contesting the propriety of the underlying local decision, based only on the evidence presented during the local proceedings." Id. at 13.

The court finds that this result is not contrary to its decision in Environmental Protection Agency v. Pollution Control Board, 115 Ill. 2d 65 (1986). The court explains the differences between Board review of Illinois Environmental Protection Agency (IEPA) permit decisions and Board review of local siting decisions, and how both such Board decisions are judicially reviewed:

While this court stated [in Environmental Protection Agency] that there was a distinction between permit and siting cases, this court never considered whether the local siting authority or that of the Board is the final decision. It is true that the Board's consideration of an IEPA permit decision differs from its consideration of a local siting decision. But we based that distinction on the lack of an adversarial hearing under the regular permitting process. Environmental Protection Agency, 115 Ill. 2d at 70. Accordingly, we found that the Board was not required to apply the manifest weight of the evidence



standard to review of an Agency's decision to deny a permit. The appellate court's review of the Board's decisions on either an appeal from an Agency permit decision or a local siting decision is the same." Town & Country I (Ill. S. Ct. 2007), slip op. at 13.

The court also makes quick work of Town & Country's argument that the Board's decision in a siting appeal is "irrelevant" and that technical decisions should be made solely by the local authority. Id. at 14. The court finds that this position conflicts with "the Act's purpose 'to establish a unified, state-wide program' to protect the citizens of Illinois from environmental harm," citing Section 2(b) of the Act. Id. The court further states that to accord the Board "no meaningful role in the process yet still require its participation would lack sense." Id. Nor does the Board being restricted to reviewing the local siting record mean, in the court's view, that the Board's technical expertise is not brought to bear: "The fact that the Board undertakes consideration of the record prepared by the local siting authority rather than preparing its own record does not render the Board's technical expertise irrelevant. Instead, the Board applies that technical expertise in examining the record to determine whether the record supported the local authority's conclusions." Id.

#### Supreme Court Affirms Board Decision on Criterion (ii)

After finding that it is the Board's decision that is subject to judicial review, the court turned to that decision. The court states that the "essential issue, as expressed in the Board's underlying reversal of the city council decision, is its disagreement with Town & Country's characterization of the underlying bedrock." Id. at 15. The court notes that the Board found (1) the evidence insufficient to show that the bedrock was an aquitard and (2) the landfill design to be based on "inaccurate scientific assumptions." Id. The court holds that the Board's conclusion on criterion (ii) (proposed facility designed, located, and proposed to be operated so as to protect public health, safety, and welfare) is not against the manifest weight of the evidence: "The witness testimony, the fact that Town & Country's application was based on only one deep boring into competent bedrock on a 236-acre site, and that the 1966 study upon which the application was based has been superseded provides significant evidence that the site application did not meet criterion (ii)." Id. at 16.

#### Conclusion of Illinois Supreme Court

After confirming the Board's decision on criterion (ii), the court finds: "Because resolution of this issue is sufficient to decide this case, we need not discuss the remaining arguments in the briefs." Id. (The County had contested the Third District's decision affirming the Board's rulings that the City's siting procedures were fundamentally fair and that the City's decision on criterion (viii) (consistency of proposal with county solid waste management plan) was not against the manifest weight of the evidence.)

The Supreme Court concludes its ruling by stating that "the judgment of the appellate court is reversed and the order of the Board is confirmed." *Id.*

#### Relationship to Town & Country II

As a result of the Illinois Supreme Court's decision in Town & Country I, Town & Country has no approval for its proposed landfill expansion as a result of its 2002 application.

In 2003, Town and Country again applied to the City for siting approval, which the City again granted. This action on the 2003 application was also appealed to the Board by three separate sets of petitioners, and handled by the Board as a single consolidated action. Byron Sandberg v. City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; Waste Management of Illinois v. City of Kankakee, Illinois, City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; County of Kankakee and Edward D. Smith, States Attorney of Kankakee County v. City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C., PCB 04-33, PCB 04-34, PCB 04-35 (cons.) (March 18,

2004)(hereinafter "Town & Country II (PCB).") In Town & Country II, the Board again affirmed the City's grant of siting approval. This decision too was appealed to the Third District.

In a non-precedential Rule 23 order issued on September 17, 2006, the Third District Appellate Court again reversed the Board, one justice dissenting. County of Kankakee, Illinois, Edward D. Smith, Kankakee County State's Attorney, Byron Sandburg and Waste Management of Illinois, Inc v. Illinois Pollution Control Board, City of Kankakee, Illinois, Kankakee Regional Landfill, LLC and Town & Country Utilities, Inc., Nos. 3-04-0271, 3-04-0285, 3-04-0289 (cons.)(Third Dist. September 17, 2006) (hereinafter Town & Country II (Third Dist.)).

On appeal of the Board's decision, petitioners argued that to the Third District Appellate Court that the Board erred in upholding the City's siting approval decision because (1) Town & Country was barred from filing the 2003 siting application by Section 39.2(m) of the Act; (2) the 2003 application did not meet all of the Section 39.2(a) siting criteria; and (3) the local siting proceedings were fundamentally unfair.

The Third District reversed the Board's decision, finding that Town & Country was barred from filing its 2003 siting application with the City because that application violated Section 39.2(m). Town & Country II (Third Dist.) slip op. at 2. Section 39.2(m) of the Act provides that an "applicant may not file a request for local siting approval which is substantially the same as a request which was disapproved pursuant to a finding against the applicant under any of the criteria (i) through (ix) of subsection (a) of this Section within the preceding 2 years." Id. at 8.

Having found that the Board had "disapproved" the 2002 siting application within the meaning of Section 39.2(m), the court addressed "whether the 2003 application, which was filed within two years of the 2002 application, was barred on the ground that the applications were substantially similar." Town & Country II (Third Dist.) slip op. at 11. The Third District held that the acknowledged differences between the two applications concerning hydrogeologic data "pale in comparison to the similarities" between the two applications. Id. at 14. The court focused on how both applications were the same regarding such uncontested items as the site's legal description, size, capacity, waste footprint, tonnage of waste received, stormwater management plan, closure and post-closure plan, leachate collection system, gas management and monitoring system, final contours and cover configuration, etc. Id. at 13-14. The Third District concluded that the Board "manifestly erred" in ruling that Section 39.2(m) did not apply to the 2003 application. Having ruled that Section 39.2(m) barred the 2003 application, the court reversed the Board's Town & Country II decision affirming the City and the City's corresponding grant of siting. Id. at 14.

Town & Country's petition for rehearing, in which the Board joined, is pending before the Third District Appellate Court.

## **Board Actions**

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**March 1, 2007**  
**Springfield, Illinois**

### **Rulemakings**

**R06-21**                      In the Matter of: Organic Material Emissions Standards and Limitations for the Chicago and Metro-East Areas: Proposed Amendments to 35 Adm. Code 218 and 219 – The Board adopted a second notice opinion and order in this rulemaking to amend the Board's air pollution regulations.

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R, Air

### **Administrative Citations**

## Environmental Register – March 2007

- AC 05-47**      IEPA v. Stacy Hess – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1), (3) and (7) of the Act (415 ILCS 5/21(p)(1), (3) and (7) (2004)) and assessing a penalty of \$4,500. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file, on or before March 22, 2007, a statement of hearing costs, supported by affidavit, with service on respondent. Respondent may respond to the cost statement within 14 days of service.      4-0
- AC 06-32**      County of Jackson v. David Skidmore – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1), (3) and (7) of the Act (415 ILCS 5/21(p)(1), (3) and (7) (2004)) and assessing a penalty of \$4,500. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file, on or before March 22, 2007, a statement of hearing costs, supported by affidavit, with service on respondent. Respondent may respond to the cost statement within 14 days of service.      4-0
- AC 07-29**      IEPA v. Gere Properties, Inc., Perry Ridge Landfill, Inc., and Mike Whitlock – The Board granted the Illinois Environmental Protection Agency’s motion to dismiss the administrative citation as to Gere Properties and Perry Ridge. The Board found that Mike Whitlock violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2004)) in this Perry County administrative citation, and ordered respondent to pay a civil penalty of \$1,500.      4-0

### Decisions

- PCB 07-3**      People of the State of Illinois v. East Lynn Community Water System, Inc. – In this water enforcement action concerning a Vermilion 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) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$200, and to cease and desist from further violations.      4-0  
W-E
- PCB 07-29**      People of the State of Illinois v. Pinnacle Genetics, L.L.C. and Professional Swine Management, L.L.C. – In this air and water enforcement action concerning a Macomb 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) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$27,000, and to cease and desist from further violations. The respondents must also perform three supplemental environmental projects at a cost of \$11,000 plus annual maintenance costs of approximately \$1,500 to \$2,000.      4-0  
W-E

### Motions and Other Matters

- PCB 00-104**      People of the State of Illinois v. The Highlands, L.L.C. and Murphy Farms, Inc., a/k/a Murphy Family Farms, and Bion Technologies, Inc. – The Board granted complainant’s motion to conform the second paragraph of the Board’s January 26, 2007 order to the stipulation between the complainant and Highlands, L.L.C. The Board ordered the respondent to pay the \$9,000.00 civil penalty in two equal and staggered installments, rather than in one installment by thirty days from the date of the Board’s final opinion and order.      4-0  
A-E

Environmental Register – March 2007

|                             |  |                            |
|-----------------------------|--|----------------------------|
| <b>PCB 04-31</b>            | <u>Broadus Oil v. IEPA</u> – The Board denied petitioner’s motion for reconsideration of the Board’s December 21, 2006 opinion and order granting summary judgment to the Illinois Environmental Protection Agency and affirming its denial of various budget amendments for corrective actions at petitioner’s leaking underground storage tank site.   | 4-0<br>UST Appeal          |
| <b>PCB 05-43</b><br>(cons.) |  |                            |
| <b>PCB 06-53</b>            | <u>C&amp;F Packing Company, Inc. v. IEPA and Lake County</u> – The Board granted this Lake County facility’s motion for voluntary dismissal of this variance petition.   | 4-0<br>W-V                 |
| <b>PCB 06-184</b>           | <u>Peoria Disposal Company v. Peoria County Board</u> – The Board granted petitioner’s motion to file a post-hearing brief in excess of 50 pages.  | 4-0<br>P-C-F-S-R           |
| <b>PCB 07-17</b>            | <u>Dale L. Stanhibel v. Tom Halat d/b/a Tom’s Vegetable Market</u> – The Board denied respondent’s motion to dismiss based on a claimed affirmative defense, and also finding that the complaint is not duplicative or frivolous. The Board directed respondent to answer the complaint on or before April 30, 2007.   | 4-0<br>Citizens<br>A&N – E |
| <b>PCB 07-34</b>            | <u>Knapp Oil Company, Inc. (Metropolis) 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 facility in Massac County.  | 4-0<br>UST Appeal          |
| <b>PCB 07-38</b>            | <u>City of Joliet 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 facility in Will County.  | 4-0<br>P-A, Water          |
| <b>PCB 07-71</b>            | <u>Lone Star Industries, Inc. v. IEPA</u> – The Board granted this LaSalle County petitioner’s motion to stay the effectiveness of three contested permit conditions.  | 4-0<br>P-A, Air            |
| <b>PCB 07-77</b>            | <u>Dynegy Midwest Generation, Inc. Baldwin Energy Complex (Property Identification Number 09-012-003-00) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynegy Midwest Generation, Inc., located in Randolph County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)). | 4-0<br>Water               |
| <b>PCB 07-78</b>            | <u>Dynegy Midwest Generation, Inc. Havana Power Station (Property Identification Number 09-11-400-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynegy Midwest Generation, Inc., located in Mason County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).      | 4-0<br>Water               |

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|                  |  |                                     |
|------------------|--|-------------------------------------|
| <b>PCB 07-79</b> | <u>North American Lighting, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving an Edgar County facility.   | 4-0<br>P-A, Air                     |
| <b>PCB 07-80</b> | <u>Russ Taylor 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 Champaign County facility. | 4-0<br>UST Appeal<br>90-Day<br>Ext. |

**March 15, 2007  
Chicago, Illinois**

### **Rulemakings**

### **Adjusted Standards**

|                |   |            |
|----------------|---|------------|
| <b>AS 07-3</b> | <u>In the Matter of: Petition of Midwest Generation, L.L.C., Waukegan Generating Station for an Adjusted Standard from 35 Ill. Adm. Code 225.230</u> – The Board granted petitioner’s motion to stay proceedings pending completion of <u>Proposed New Clean Air Interstate Rule (CAIR) SO<sub>2</sub>, NO<sub>x</sub> Annual and NO<sub>x</sub> Ozone Season Trading Programs, 35 Ill. Adm. Code 225, Subparts A, C, D and E, R06-26.</u>    | 4-0<br>Air |
| <b>AS 07-4</b> | <u>In the Matter of: Petition of Midwest Generation, L.L.C., Will County Generating Station for an Adjusted Standard from 35 Ill. Adm. Code 225.230</u> – The Board granted petitioner’s motion to stay proceedings pending completion of <u>Proposed New Clean Air Interstate Rule (CAIR) SO<sub>2</sub>, NO<sub>x</sub> Annual and NO<sub>x</sub> Ozone Season Trading Programs, 35 Ill. Adm. Code 225, Subparts A, C, D and E, R06-26.</u> | 4-0<br>Air |

### **Administrative Citations**

|                 |   |     |
|-----------------|---|-----|
| <b>AC 06-50</b> | <u>IEPA v. Maria Lewis Gates, Mark Gates, and Mark Kingsley Lewis</u> – The Board granted respondent Mark Gates’ motion in part. The Illinois Environmental Protection Agency need not produce the documents requested, but Gates is given until April 13, 2007 to amend his original petition. | 4-0 |
| <b>AC 07-31</b> | <u>IEPA v. Mark A. Lewis</u> – The Board dismissed respondent’s petition for review as untimely filed. The Board then found that this Clay County respondent violated Section (p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)), and ordered respondent to pay a civil penalty of \$1,500.         | 4-0 |
| <b>AC 07-33</b> | <u>IEPA v. Donald R. Langley, Perry D. Winebrinner and Bret Slater</u> – The Board found that these Logan County respondents violated Section (p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)), and ordered respondents to pay a civil penalty of   | 4-0 |

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\$1,500.

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|                    |   |     |
|--------------------|---|-----|
| <b>AC 07-34</b>    | <u>County of Jackson v. Alvin Valdez and Ruben J. Valdez</u> – The Board accepted as timely respondents’ petition for review of this administrative citation involving a Union County facility. But, the Board then directed respondents to file within thirty days, an amended petition stating the reasons for appeal as required by 35 Ill. Adm. Code 108.206.         | 4-0 |
| <b>AC 07-35</b>    | <u>County of Jackson v. Gary Easton</u> – The Board found that this Jackson County respondent violated Section (p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)). Because the Board had previously found respondent in violation of Section 21(p)(1) ( <i>see County of Jackson v. Gary Easton</i> , AC 04-42 (Mar. 18, 2004)), the total civil penalty assessed is \$3,000. | 4-0 |
| <b>AC 07-36</b>    | <u>IEPA v. Lawrence Abraham Bartolomucci</u> – The Board accepted respondent’s petition for review and on its own motion consolidated these administrative citations concerning three sites in Jefferson County for purpose of hearing.   | 4-0 |
| <b>AC 07-37</b>    |   |     |
| <b>AC 07-38</b>    |   |     |
| <b>(not cons.)</b> |   |     |
| <b>AC 07-39</b>    | <u>County of Jackson v. Gary Easton</u> – The Board found that this Jackson County respondent violated Section (p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)). Because the Board had previously found respondent in violation of Section 21(p)(1) ( <i>see County of Jackson v. Gary Easton</i> , AC 04-42 (Mar. 18, 2004)), the total civil penalty assessed is \$3,000. | 4-0 |
| <b>AC 07-43</b>    | <u>County of Jackson v. Bob Osinga</u> – The Board accepted respondent’s petition for review of this administrative citation involving a Jackson County facility, and set the matter for hearing.   | 4-0 |

**Decisions**

|                  |  |            |
|------------------|--|------------|
| <b>PCB 06-79</b> | <u>People of the State of Illinois v. City of Gillespie</u> – In this water enforcement action concerning a Macoupin 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) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$2,000, and to cease and desist from further violations. The respondents must also perform a supplemental environmental project by making a \$5,000 grant to the Gillespie Soccer Association to fund a project intended to reduce or eliminate erosion and leaching at the Little Dog Coal Mine site now owned and operated by the soccer association. | 4-0<br>W-E |
| <b>PCB 07-73</b> | <u>People of the State of Illinois v. Randy Edmund d/b/a Edmund Farms</u> – In this water enforcement action concerning a Henry 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) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$7,500, and to cease and desist from further violations.   | 4-0<br>W-E |

**Motions and Other Matters**

|                             |  |                        |
|-----------------------------|--|------------------------|
| <b>PCB 02-11</b>            | <u>Doris Glave and Glenn Glave v. Brent Harris, Patty Harris, and Winds Chant Kennel, Inc.</u> ; <u>Village of Grayslake v. Winds Chant Kennel, Inc.</u> – The Board granted the parties’ stipulated motion to dismiss this consolidated citizens’ enforcement action involving a Lake County facility.  | 4-0<br>Citizens<br>N-E |
| <b>PCB 02-32</b><br>(cons.) |  |                        |
| <b>PCB 03-191</b>           | <u>People of the State of Illinois v. Community Landfill Company, Inc. and the City of Morris</u> – The Board denied complainant’s motion to set a hearing date or, alternatively, sever the respondents’ claims.  | 4-0<br>L-E             |
| <b>PCB 05-191</b>           | <u>People of the State of Illinois v. Castle Ridge Estates Incorporated</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 Madison County facility, the Board ordered publication of the required newspaper notice.  | 4-0<br>W-E             |
| <b>PCB 05-212</b>           | <u>John and Linda Maracic v. TNT Logistics North America Inc.</u> – The Board granted petitioners’ motion for leave to file the amended complaint and accepted their filing of the amended complaint, but denied their motion to add Key Logistics Solutions and Location Finders, Inc. as respondents. The Board also granted respondent’s motion to dismiss the original complaint and the amended complaint.    | 4-0<br>N-E             |
| <b>PCB 05-213</b>           | <u>Vincent and Jennifer Neri v. TNT Logistics North America Inc.</u> – The Board granted petitioners’ motion for leave to file the amended complaint and accepted their filing of the amended complaint, but denied their motion to add Key Logistics Solutions and Location Finders, Inc. as respondents. The Board also granted respondent’s motion to dismiss the original complaint and the amended complaint. | 4-0<br>N-E             |
| <b>PCB 05-216</b>           | <u>Wayne Haser v. TNT Logistics North America Inc.</u> – The Board granted petitioners’ motion for leave to file the amended complaint and accepted their filing of the amended complaint, but denied their motion to add Key Logistics Solutions and Location Finders, Inc. as respondents. The Board also granted respondent’s motion to dismiss the original complaint and the amended complaint.               | 4-0<br>N-E             |
| <b>PCB 05-217</b>           | <u>Ken Blouin v. TNT Logistics North America Inc.</u> – The Board granted petitioners’ motion for leave to file the amended complaint and accepted their filing of the amended complaint, but denied their motion to add Key Logistics Solutions and Location Finders, Inc. as respondents. The Board also granted respondent’s motion to dismiss the original complaint and the amended complaint.                | 4-0<br>N-E             |



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|------------------|--|-------------------|
| <b>PCB 07-9</b>  | <u>K.A. Steel Chemicals Inc. v. IEPA</u> – The Board granted this Cook County facility’s motion for voluntary dismissal of this permit appeal.   | 4-0<br>P-A, NPDES |
| <b>PCB 07-27</b> | <u>Village of Wilmette v. IEPA</u> – The Board denied petitioner’s motion to consolidate this case with PCB 07-48. The Board took no action on respondent’s motion for summary judgment.   | 4-0<br>UST Appeal |
| <b>PCB 07-37</b> | <u>People of the State of Illinois v. Village of Dorchester</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this public water supply enforcement action involving a Macoupin County facility, the Board ordered publication of the required newspaper notice.   | 4-0<br>PWS-E      |
| <b>PCB 07-39</b> | <u>City of Geneva v. IEPA</u> – The Board granted this Kane County facility’s motion for voluntary dismissal of this permit appeal.  | 4-0<br>P-A, Water |
| <b>PCB 07-44</b> | <u>Indian Creek Development Company individually as beneficiary under Trust 3291 of the Chicago Title and Trust Company dated December 15, 1981 and the Chicago Title and Trust Company, as trustee under trust 3291 dated December 15, 1981 v. The Burlington Northern Santa Fe Railway Company</u> – The Board, in this land and water enforcement action involving a site located in Kane County, denied respondent’s motion to dismiss, determined that the complaint was neither duplicative nor frivolous, and accepted the complaint for hearing. | 4-0<br>L&W-E      |
| <b>PCB 07-48</b> | <u>Village of Wilmette v. IEPA</u> – The Board denied petitioner’s motion to consolidate this case with PCB 07-27.   | 4-0<br>UST Appeal |
| <b>PCB 07-81</b> | <u>People of the State of Illinois v. Durre Brothers Welding and Machine Shop, Inc.</u> – The Board accepted for hearing this water enforcement action involving a site located in Woodford County.  | 4-0<br>W-E        |
| <b>PCB 07-82</b> | <u>Bob’s Service Center, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a St. Clair County facility.   | 4-0<br>UST Appeal |
| <b>PCB 07-83</b> | <u>People of the State of Illinois v. Edelstein Waterworks Co-Op</u> – The Board accepted for hearing this public water supply enforcement action involving a site located in Peoria County.   | 4-0<br>PWS-E      |
| <b>PCB 07-84</b> | <u>American Bottom Conservancy and Sierra Club v. City of Madison, Illinois and Waste Management of Illinois, Inc.</u> – The Board accepted for hearing this third-party pollution control facility siting appeal involving a Madison County facility.   | 4-0<br>P-C-F-S-R  |

## New Cases

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### March 1, 2007 Board Meeting

**07-077** Dynegy Midwest Generation, Inc. Baldwin Energy Complex (Property Identification Number 09-012-003-00) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynegy Midwest Generation, Inc., located in Randolph County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).

**07-078** Dynegy Midwest Generation, Inc. Havana Power Station (Property Identification Number 09-11-400-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynegy Midwest Generation, Inc., located in Mason County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).

**07-079** North American Lighting, Inc. v. IEPA – The Board accepted for hearing this permit appeal involving an Edgar County facility.

**07-080** Russ Taylor 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 Champaign County facility.

**AC 07-043** County of Jackson v. Bob Osinga – The Board accepted an administrative citation against this Jackson County respondent.

**AC 07-044** IEPA v. Harold Tomlinson, Larry Tomlinson and Jerry Tomlinson – The Board accepted an administrative citation against these Marshall County respondents.

**AC 07-045** County of LaSalle v. Wayne and Becky Foster – The Board accepted an administrative citation against these LaSalle County respondents.

### March 15, 2007 Board Meeting

**07-081** People of the State of Illinois v. Durre Brothers Welding and Machine Shop, Inc. – The Board accepted for hearing this water enforcement action involving a site located in Woodford County.

**07-082** Bob’s Service Center, Inc. v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a St. Clair County facility.

**07-083** People of the State of Illinois v. Edelstein Waterworks Co-Op – The Board accepted for hearing this public water supply enforcement action involving a site located in Peoria County.

**07-084** American Bottom Conservancy and Sierra Club v. City of Madison, Illinois and Waste Management of Illinois, Inc. – The Board accepted for hearing this third-party pollution control facility siting appeal involving a Madison County facility.

**AC 07-046** IEPA v. Adolph M. Lo – The Board accepted an administrative citation against this Champaign County respondent.

## Provisional Variances

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**IEPA 07-14** Midwest Generation EME, LLC Will County Generating Station v. IEPA – On March 14 2007, the Illinois Environmental Protection Agency granted Midwest Generation EME, LLC’s Will County Generating Station a provisional variance, subject to conditions, from the BOD and TSS limits for Outfall 003 of NPDES Permit IL0002208. Midwest Generation EME

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requested the provisional variance for its coal-fired steam electric generating facility near Romeoville because of an upset in its sanitary wastewater treatment system that requires the cleaning of the media in the trickling filter. Cleaning the media and re-establishing biological growth will take approximately 30 days. Relief was granted beginning March 14, 2007, and ending no later than April 27, 2007.

*Public Act 93-0152 (Senate Bill 222) amended Sections 35-37 of the Illinois Environmental Act (415 ILCS 5/5(b) (2002)) so that provisional variances are issued by the Illinois Environmental Protection Agency (IEPA). If the IEPA grants a provisional variance, then the IEPA must file a copy of its written decision with the Board. The Board must maintain copies of the provisional variances for public inspection. Copies of provisional variances can be obtained by contacting the Clerk's Office at (312) 814-3620, or by visiting the Board's Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). If the IEPA denies a provisional variance request, then the applicant may initiate a proceeding with the Board for a full variance.*

## Calendar

|                              |  |   |   |
|------------------------------|--|---|---|
| <p>4/5/07<br/>11:00 AM</p>   | <p><u>Illinois Pollution Control Board Meeting</u></p> |   | <p>Videoconference<br/>Chicago/Springfield<br/>James R. Thompson Center<br/>Hearing Room 11-512<br/>100 W. Randolph Street<br/>Chicago<br/>And<br/>1021 N. Grand Avenue East<br/>Oliver Holmes Conference<br/>Room 2012 N<br/>Springfield</p> |
| <p>4/19/07<br/>11:00 AM</p>  | <p><u>Illinois Pollution Control Board Meeting</u></p> |   | <p>James R. Thompson Center<br/>Room 9-040<br/>100 W. Randolph Street<br/>Chicago</p>   |
| <p>04/23/07<br/>10:00 AM</p> | <p>R07-9</p>   | <p>In the Matter of: Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards: Proposed Amendments to 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 409.109(b)(2)(B), 406.100(d); Repealer of 35 Ill. Adm. Code 406.203 and Part 407; and Proposed News 35 Ill. Adm. Code 302.208(h)</p> | <p>James R. Thompson Center<br/>Room 9-031<br/>100 W. Randolph<br/>Chicago</p>  |
| <p>5/3/07<br/>11:00 AM</p>   | <p><u>Illinois Pollution Control Board Meeting</u></p> |   | <p>Illinois Pollution Control Board<br/>Hearing Room<br/>1021 North Grand Avenue East<br/>North Entrance<br/>Springfield</p>  |

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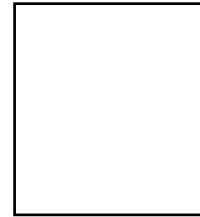
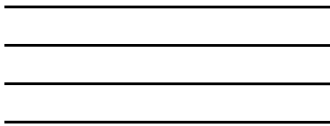
|                     |  |   |   |
|---------------------|--|---|---|
| 5/08/07<br>12:00 PM | AC 05-72   | IEPA v. Gary Clover, d/b/a Clover Concrete, Marion, IL  | City Hall Council Chambers<br>1102 Tower Square<br>Marion                                     |
| 5/16/07<br>9:00 AM  | AC 06-16   | IEPA v. Rex D. Evans and Roy W. Evans, Jr. (Road Dist. No. 10/Evans)(IEPA File No. 442-05-AC)(Consolidated: AC 06-16 and AC 06-17 | Municipal Building<br>2 <sup>nd</sup> Floor Commission Room<br>200 W. Douglas<br>Jacksonville |
| 5/16/07<br>9:00 AM  | AC 06-17   | IEPA v. Rex D. Evans and Roy W. Evans, Jr. (Road Dist. No. 11/Evans)(IEPA File No. 443-05-AC)(Consolidated: AC 06-16 and AC 06-17 | Municipal Building<br>2 <sup>nd</sup> Floor Commission Room<br>200 W. Douglas<br>Jacksonville |
| 5/17/07<br>11:00 AM | <b><u>Illinois Pollution Control Board Meeting</u></b> |   | <b>James R. Thompson Center<br/>Room 9-040<br/>100 W. Randolph Street<br/>Chicago</b>         |



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

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

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