

Environmental Appeals Board Affirms \$105,590 Penalty for Violations of Safe Drinking Water Act

By: Dave Scriven-Young, Attorney at Peckar & Abramson, P.C.

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On March 30th, the Environmental Appeals Board issued its opinion in *In re Rocky Well Service, Inc., SDWA Appeal Nos. 08-03 & 08-04*, which concerned defendants' operation of six underground injection wells in Clinton, Effingham, Jefferson and Wayne counties in Illinois. The [Appeals Board](#) is the final U.S. EPA decisionmaker on administrative appeals under all major environmental statutes that EPA administers.

In this case, EPA alleged that defendants failed to subject six Class II underground injection wells to mechanical integrity testing and failed to submit annual monitoring reports for the same six wells. [An underground injection well](#) is a device that places fluid deep underground into porous rock formations, such as sandstone or limestone, or into or below the shallow soil layer. These fluids may be water, wastewater, brine (salt water), or water mixed with chemicals. Underground injection wells have a range of uses that include waste disposal, enhancing oil production, mining, and preventing salt water intrusion. EPA regulates underground injection wells to prevent endangerment of drinking water sources.

The Regional Judicial Officer for EPA Region 5 assessed a joint civil penalty of \$105,590 against both Rocky Well Service, which held the permit for the wells, and Edward Klockenkemper, who served as the President, Secretary, Treasurer, and Agent for, as well as conducting the day-to-day operations of, the corporation. The Appeals Board affirmed the Officer's order assessing the penalty. In particular, the Appeals Board held that "the scope of liability under both the [Safe Drinking Water Act] and the approved Illinois [Underground Injection Control] program is not, as Mr. Klockenkemper asserts, limited to permittees. Indeed . . . the Board finds that the applicable statutory and regulatory provisions unambiguously extend liability beyond permittees to a broad range of individuals, including individuals, such as Mr. Klockenkemper, acting on behalf of a corporation."

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