

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



AUGUST 8, 2002 SPRINGFIELD OFFICE
600 South Second Street - Suite 403
Hearing Room
11:00 A.M.

ANNOUNCEMENTS

After calling the meeting to order, Chairman Manning welcomed members of the public and staff to the meeting.

ROLL CALL

The Administrative Assistant to the Chairman called the roll. All Board Members were present.

APPROVAL OF MINUTES

Minutes of the July 11, 2002 meeting were approved by a vote of 6-0, Board Member Marovitz abstained.

RULEMAKINGS

R02-20	<u>In the Matter of: Proposed Horween Leather Company Site-Specific Air Rule, 35 Ill. Adm. Code 218.112 and 218.929</u> – The Board adopted a first notice opinion and order in this matter to amend the Board’s air regulations.	7-0 R, Air Site Specific
R03-1	<u>In the Matter of: UST Update, USEPA Regulations (January 1, 2002 through June 30, 2002)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its underground storage tank regulations during the update period.	7-0 R, Land

R03-2 In the Matter of: Wastewater Pretreatment Update, USEPA Regulations (January 1, 2002 through June 30, 2002) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its wastewater pretreatment regulations during the update period. 7-0
R, Land

R03-3 In the Matter of: Exemptions from the Definition of VOM Update, USEPA Regulations (January 1, 2002 through June 30, 2002) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its exemptions from the definition of volatile organic material regulations during the update period. 7-0
R, Air

R03-5 In the Matter of: UIC Update, USEPA Regulations (January 1, 2002 through June 30, 2002) – The Board dismissed this reserved identical-in-substance docket because the only United States Environmental Protection Agency amendment to underground injection control regulations during the update period did not require any Board action. 7-0
R, Land

R03-6 In the Matter of: RCRA Subtitle D Update, USEPA Regulations (January 1, 2002) – The Board dismissed this reserved identical-in-substance docket because the only United States Environmental Protection Agency amendment to its non-hazardous waste regulations during the update period did not require any Board action. 7-0
R, Land

R03-8 In the Matter of: Noise Rule Update: Amendments to 35 Ill. Adm. Code 900 – The Board reserved this docket for a future rulemaking to amend the Board’s noise pollution control regulations. R, Noise

ADMINISTRATIVE CITATIONS

AC 01-29 IEPA v. Lesslie Yocum, Sandra Yocum, Rick L. Yocum, and 5-2
AC 01-30 Shawna B. Yocum (Birmingham/Yocum #1); IEPA v. Lesslie
(Cons.) Yocum and Sandra Yocum (Birmingham/Yocum #2) – The Board Girard and
entered an order requiring respondents to pay the Board and the Johnson
Environmental Protection Agency hearing costs in the amount of dissented
\$281.10 and \$69.33 respectively, and a civil penalty of \$6,000.
This order follows the Board's interim order of June 6, 2002, which

found that this respondent had violated Sections 21(p)(3) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(3), (p)(7) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002) and assessed a penalty of \$6,000 at respondents' Schuyler County facility.

AC 01-42	<u>IEPA v. Alan Smith</u> – The Board entered an order requiring respondent to pay the Board and the Environmental Protection Agency hearing costs in the amount of \$335.25 and \$88.65 respectively, and a civil penalty of \$1,500. This order follows the Board's interim order of June 6, 2002, which found that this respondent had violated Section 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21 (p)(3) (2000) <i>amended by</i> P.A. 92-0574, eff. June 26, 2002) and assessed a penalty of \$1,500 at respondent's Champaign County facility.	7-0
AC 02-2	<u>IEPA v. Nordean and Susan Simons d/b/a Berman Auto Parts</u> – The Board entered an interim opinion and order finding respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2000) <i>amended by</i> P.A. 92-0574, eff. June 26, 2002) and assessing a penalty of \$1,500. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondents.	7-0
AC 02-7	<u>IEPA v. Terry and Litisha Springer</u> The Board entered an interim opinion and order finding respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2000) <i>amended by</i> P.A. 92-0574, eff. June 26, 2002) and assessing a penalty of \$1,500. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondents.	7-0
AC 02-16	<u>IEPA v. Brad Krstic</u> – The Board entered an order requiring respondent to pay the Board and the Environmental Protection Agency hearing costs in the amount of \$467.00 and \$140.40 respectively, and a civil penalty of \$1,500. This order follows the Board's interim order of June 6, 2002, which found that this respondent had violated Section 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21 (p)(3) (2000) <i>amended by</i> P.A. 92-0574, eff. June 26, 2002) and assessed a penalty of \$1,500 at respondent's Mercer County facility.	7-0
AC 02-18	<u>IEPA v. Bradney Luckhart</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving	7-0

a Logan County facility, the Board found respondent violated Section 21(p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(3) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002) and ordered respondent to pay a civil penalty of \$1,500. The Board also dismissed the alleged violations of Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002).

AC 02-20 IEPA v. Housewright Lumber Company and William A. Housewright – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Hancock County facility, the Board found respondents violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002) and ordered respondents to pay a civil penalty of \$3,000. The Board also dismissed the alleged violations of Sections 21(p)(4) and (p)(7) of the Act (415 ILCS 5/21(p)(4), (p)(7) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002). 7-0

AC 02-32 IEPA v. Colorado Real Estate & Investment Company – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Peoria County facility, the Board found respondent violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002) and ordered respondent to pay a civil penalty of \$1,500. The Board also dismissed the alleged violations of Section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002). 7-0

AC 02-39 IEPA v. Jerel Childers – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Massac County facility, the Board found respondent violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002) and ordered respondent to pay a civil penalty of \$1,500. The Board also dismissed the alleged violations of Sections 21(p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(3), (p)(7) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002). 7-0

AC 02-42 IEPA v. Herbert L. Board – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Edgar County facility, the Board found respondent violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002). 7-0

2002) and ordered respondent to pay a civil penalty of \$1,500.

AC 02-56	<u>City of Chicago Department of Environment v. City Wide Disposal, Inc.</u> – The Board dismissed this administrative citation involving a Cook County facility due to the City of Chicago’s failure to timely serve it on respondent.	7-0
AC 02-57	<u>City of Chicago Department of Environment v. City Wide Disposal, Inc.</u> – The Board found that this Cook County respondent violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2000) <i>amended by</i> P.A. 92-0574, eff. June 26, 2002), and ordered respondent to pay a civil penalty of \$3,000.	6-1 Girard dissented
AC 02-58	<u>IEPA v. RCS, Inc. and Robert Fosnock</u> – The Board dismissed this administrative citation involving a Jersey County facility due to the Environmental Protection Agency’s failure to timely serve it on respondents.	7-0
AC 02-61	<u>IEPA v. Steve Koester</u> – The Board accepted for hearing this petition for review of an administrative citation against this Champaign County respondent.	7-0
AC 03-1	<u>IEPA v. Tony Luttrell</u> – The Board accepted an administrative citation against this Clay County respondent.	
AC 03-2	<u>IEPA v. Ed Heitz</u> - The Board accepted an administrative citation against this McLean County respondent.	
AC 03-3	<u>IEPA v. Rayetta Thompson</u> – The Board accepted an administrative citation against this Union County respondent.	
AC 03-4	<u>City of Chicago Department of Environment v. Mannion Plumbing, Inc.</u> – The Board accepted an administrative citation against this Cook County respondent.	
AC 03-5	<u>IEPA v. Loxley, Inc.</u> – The Board accepted an administrative citation against this Cass County respondent.	

ADJUDICATORY CASES

Decisions

PCB 96-256 People of the State of Illinois v. Crier Development Company and Bradley S. Cowell — Having previously found that respondent violated Section 12(b) of the Act and 35 Ill. Adm. Code 309.202(a) (415 ILCS 5/12(b) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002), the Board ordered the respondents to pay a total civil penalty of \$25,000 and to cease desist from further violation of the Act. Complainant must file an affidavit in support of their request for fees by August 22, 2002, and respondents may file a response to the affidavit by September 5, 2002.

6-1
Marovitz
dissented
W-E

PCB 03-4 People of the State of Illinois v. Oak Terrace Sanitary System, Inc. – In this water enforcement action concerning a Christian 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) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002), accepted a final stipulation and settlement agreement, ordered the respondent to pay a total civil penalty of \$4,000, and to cease and desist from further violations.

6-1
Marovitz
dissented
W-E

Motions and Other Matters

Additional motions on the following cases filed prior to this meeting may be included here.

PCB 96-143 People of the State of Illinois v. Michel Grain Company, Inc. d/b/a Michel Fertilizer, Carlyle Michel, and Ronnie Todd – No action taken.

W-E

PCB 97-66 People of the State of Illinois v. D'Angelo Enterprises, Inc. – No action taken.

RCRA-E

PCB 97-119 People of the State of Illinois v. G&M Total, Inc. and George Papas, individually and as President of G&M Total, Inc. – The Board denied respondent's motion for leave to appear pro hac vice.

7-0
UST-E

PCB 97-193 People of the State of Illinois v. Community Landfill Company, Inc. – The Board denied complainant's motion to strike respondent affidavit, and will allow complainant until August 15, 2002 to respond to the motion to strike affidavit.

7-0
L-E

PCB 98-80	<u>People of the State of Illinois v. Craig Linton and Randy Rowe</u> – No action taken.	L-E Tires
PCB 99-120	<u>People of the State of Illinois v. Wood River Refining Company</u> – The Board granted in part and denied in part complainant’s motion to strike affirmative defenses.	7-0 A-E
PCB 99-134	<u>People of the State of Illinois v. Peabody Coal Company</u> – No action taken.	W-E
PCB 99-193	<u>People of the State of Illinois v. The Purdy Company and Indiana Harbor Belt Railroad</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	7-0 L-E
PCB 00-111	<u>People of the State of Illinois v. R. Frietsch & Company, Inc.</u> – The Board denied the motions for summary judgment and found it unnecessary to decide on the complainant’s motion to strike the affidavit.	7-0 A-E
PCB 00-140	<u>Gladys L. Knox and David A. Knox v. Turris Coal Company and AEI Resources, Inc.</u> – The Board denied respondent’s objections to evidentiary rulings finding that the hearing officer correctly ruled to allow the testimony, report, and rebuttal testimony of Greg Zak.	7-0 Citizens N-E
PCB 00-160	<u>ESG Watts, Inc. (Sangamon Valley Landfill) v. IEPA</u> – The Board declined to rule on petitioner’s motion for summary judgment and ordered this matter to proceed to hearing.	7-0 P-A, Land
PCB 00-219	<u>Stephen G. Brill v. Henry Latoria d/b/a T.L. Trucking Foodliner</u> – No action taken.	Citizens A&N-E

PCB 00-226	<u>Equilon Enterprises L.L.C. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this air permit appeal involving a Cook County facility.	7-0 P-A, Air
PCB 01-38	<u>Equilon Enterprises L.L.C. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this air permit appeal involving a Cook County facility.	7-0 P-A, Air
PCB 01-39	<u>Lannis Walters d/b/a Fat Boy Pizza (Get & Go) v. IEPA</u> - No action taken.	UST-FRD
PCB 01-116	<u>Premcor Refining Group, 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 01-167	<u>People of the State of Illinois v. ESG Watts, Inc.</u> – No action taken.	A,W&L-E
PCB 02-56	<u>People of the State of Illinois v. Chiquita Processed Foods, L.L.C.</u> – No action taken.	W-E
PCB 02-172	<u>Reichhold Chemicals, Inc. (Corrective Actions Cost November 11, 1998 through November 26, 1999) 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 Cook County facility.	7-0 UST Fund
PCB 02-183	<u>Shearon, Inc. 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 McHenry County facility.	7-0 UST Appeal

PCB 02-187	<u>UOP L.L.C. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Cook County facility.	7-0 P-A, Air
PCB 02-188	<u>Smithfield Properties IV, L.L.C. 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 Cook County facility.	7-0 UST Appeal
PCB 02-189	<u>Wareco Service, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Knox County facility.	7-0 UST Fund
PCB 02-190	<u>Mark IV Realty, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	6-0 Melas recused UST Appeal
PCB 02-193	<u>Illinois Valley Paving Company 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 Scott County facility.	7-0 UST- Appeal 90-Day Ext.
PCB 02-196	<u>Smoot Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Union County facility.	7-0 UST-FRD
PCB 02-205	<u>Home Oil Company v. IEPA</u> – No action taken.	UST Fund
PCB 02-206		

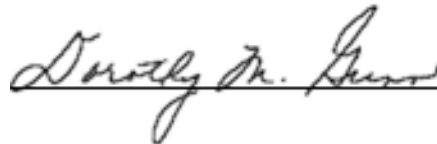
PCB 02-208	<u>Brian Finley, Local 3315 of the American Federation of State, County, and Municipal Employees (Cook County Public Defenders Association) and named others v. Acme Barrel Company, Inc. a/k/a Acme Barrel Company, a/k/a IFCO Systems Chicago, Inc. and others</u> – The Board found that the alleged violations in the complaint were neither duplicative nor frivolous, denied respondent’s motion to dismiss, and accepted for hearing this matter involving a Cook County facility.	7-0 Citizens A-E
PCB 02-225	<u>Janet Wagner v. Lisa Perenchio and Jim Weihsmantel</u> – The Board found that the alleged violations in the complaint were neither duplicative nor frivolous, denied respondent’s motion to dismiss, and accepted for hearing this matter involving a Cook County facility.	7-0 Citizens N-E
PCB 03-3	<u>Akzo Nobel Surface Chemistry L.L.C. v. IEPA</u> - No action taken.	W-V, NPDES
PCB 03-5	<u>People of the State of Illinois v. Star Electronics, Inc.</u> – The Board accepted for hearing this air enforcement action involving a Cook County facility.	7-0 A-E
PCB 03-6	<u>The City of Farmington, Farmington Sanitary District, and The Farmington Central Community Unit School District No. 265 v. IEPA</u> – No action taken.	W-V NPDES
PCB 03-7	<u>Hurley Rulon, Carol Rulon, Frank Ewen, Janice Ewen, Jerome Hayn, Betty Hayn, John O. Schumann, Alice Schumann, Brenda Nord, Carl Nord, April Swan, Anthony Swan, Carol Adkins, Paul Adkins, and Paul Niebruegge v. Double D Gun Club</u> – The Board held for a later duplicative /frivolous determination this citizen’s land and water enforcement action involving a Calhoun County facility.	Citizens L&W-E
PCB 03-8	<u>Ralph Johnson Estate 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 Christian County facility.	7-0 UST Appeal 90-Day Ext.

PCB 03-9	<u>Piasa Motor Fuels 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 03-10	<u>Ralph's Bonded 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 Hancock County facility.	7-0 UST Appeal 90-Day Ext.
PCB 03-11	<u>City of Carlyle v. IEPA</u> – The Board accepted this public water supply variance involving a Clinton County facility.	7-0 PWS-V
PCB 03-12	<u>People of the State of Illinois v. Riverstone Group, Inc.</u> – The Board accepted for hearing this water enforcement action involving a LaSalle County facility.	7-0 W-E
PCB 03-13	<u>People of the State of Illinois v. Chicago Diversified Projects, Inc.</u> – The Board accepted for hearing this air enforcement action involving a Cook County facility.	7-0 A-E

ADJOURNMENT

Moved and seconded, by a vote of 7-0, Chairman Manning adjourned the meeting at 11:55 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on August 8, 2002 by a vote of.



Dorothy M. Gunn, Clerk