

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



July 23, 2009

Videoconference

Chicago Office

100 W. Randolph Street
Chicago, IL

Room 11-512

AND

Springfield Office

1021 N. Grand Avenue East
Springfield, IL

Room 1244 N, First Floor

11:00 a.m.

ANNOUNCEMENTS

Chairman Girard welcomed members of the public and staff.

ROLL CALL

The Assistant Clerk of the Board called the roll. All five Board Members answered present.

APPROVAL OF MINUTES

The minutes of the June 18, 2009 open meeting and the July 16, 2009 closed deliberative session were approved by a vote of 5-0.

RULEMAKINGS

R07-19	<u>In the Matter of: Section 27 Proposed Rules for Nitrogen Oxide (NOx) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217</u> – The Board adopted a final opinion and order in this rulemaking amending the Board’s air pollution control regulations.	5-0 Air
R08-19	<u>In the Matter of: Nitrogen Oxides Emissions From Various Source Categories, Amendments to 35 Ill. Adm. Code Parts 211 and 217</u> – The Board adopted a second notice opinion and order in this rulemaking proposal to amend the Board’s air pollution control regulations.	5-0 Air
R09-16	<u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2008 through December 31, 2008)</u> – No action taken.	Land
R09-22	<u>In the Matter of: Petition of Maximum Investments, LLC for a Rule of General Applicability Under 415 ILCS 5/22.2b(a)3</u> – No action taken.	Land
R10-1	<u>SDWA Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Land
R10-2	<u>UIC Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Land
R10-3	<u>RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Land

R10-4	<u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Land
R10-5	<u>UST Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Land
R10-6	<u>Wastewater Pretreatment Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Water
R10-7	<u>Definition of VOM Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Air
R10-8	<u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group II Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219</u> – No action taken.	Air

ADJUSTED STANDARDS

AS 09-2	<u>In the Matter of: Petition of Maximum Investments, LLC for an Adjusted Standard from 35 Ill Administrative Code 740.210(a)3 for the Stoney Creek Landfill, Palos Hills, Il. v. IEPA</u> – No action taken.	Land
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AS 09-3	<u>In the Matter of: Petition of Westwood Lands, Inc. for an Adjusted Standard from Portions of 35 Ill. Adm. Code 807.104 and 35 Ill. Adm. Code 810-103 or in the Alternative, a Finding of Inapplicability</u> – The Board accepted petitioner’s amended petition for an adjusted standard petition for its facility located at 4 Caine Drive, Madison, Madison County and directed the Illinois Environmental Protection Agency to file its recommendation.	5-0 Land
AS 09-4	<u>In the Matter of: Petition of Royal Fiberglass Pools, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 215.301</u> – No action taken.	Air

ADMINISTRATIVE CITATIONS

AC 06-39	<u>City of Chicago Department of Environment v. Speedy Gonzalez Landscaping, Inc.</u>	
AC 06-40	<u>City of Chicago Department of Environment v. Jose R. Gonzalez</u>	
AC 06-41	<u>City of Chicago Department of Environment v. 1601-1759 East 130th Street, LLC</u>	
AC 07-25 (cons.)	<u>City of Chicago Department of Environment v. 1601-1759 East 130th Street, LLC</u> – No action taken.	
AC 09-39	<u>IEPA v. Donald Sapp</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Pike County facility.	5-0
AC 09-40	<u>IEPA v. Thomas and Valerie Hill</u> – No action taken.	
AC 09-41	<u>IEPA v. Mark A. Lewis</u> – The Board accepted respondent’s amended petition for review, but directed respondent to file another amended petition to cure deficiencies on or before August 24, 2009.	5-0
AC 09-42	<u>IEPA v. Brian Collins</u> – The Board found that this Franklin County respondent violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2008)), and ordered respondent to pay a civil penalty of \$4,500.	5-0

AC 09-45	<u>IEPA v. Stanley Mouser</u> – The Board dismissed respondent’s petition for review as untimely filed. The Board found that this Alexander County respondent violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1),(p)(7) (2008)), and ordered respondent to pay a civil penalty of \$3,000.	5-0
AC 09-47	<u>IEPA v. D & B Refuse Service, Inc. and Steve Loveall</u> – The Board accepted for hearing respondents’ petition for review of this administrative citation involving a Moultrie County facility.	5-0
AC 09-48	<u>IEPA v. Montel & Aneita Metzger</u> – The Board accepted for hearing respondents’ petition for review of this administrative citation involving a Woodford County facility.	5-0
AC 09-49	<u>IEPA v. Ameren Energy Generating Company, Ameren Corporation and Jerry Simpson</u> – No action taken.	
AC 09-51	<u>IEPA v. Springfield Iron & Metal Co., Inc. and Russell & Evelyn Weller</u> – The Board found that these Sangamon County respondents violated Sections 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2008)). Because there is one violation of Section 21(p) and this violation is a second or subsequent adjudicated violation, the Board ordered respondents to pay a civil penalty of \$3,000.	5-0
AC 09-52	<u>County of LaSalle v. Ernest W. Foster</u> – The Board directed respondent to file an amended petition for review on or before August 24, 2009, or this action will be subject to dismissal.	5-0
AC 09-53	<u>IEPA v. Marty D. Leigh and Peggy J. Leigh</u> – The Board found that these Clay County respondents violated Sections 21(p)(1) and (p)(5) of the Environmental Protection Act (415 ILCS 5/21(p)(1),(p)(5) (2008)), and ordered respondents to pay a civil penalty of \$3,000.	5-0
AC 09-54	<u>IEPA v. Richard A. & David J. Krumholz d/b/a Krumholz Brothers Landscaping</u> – The Board accepted for hearing respondents’ petition for review of this administrative citation involving a Peoria County facility.	5-0
AC 09-55	<u>IEPA v. Jason D. & Angela R. Marrs d/b/a Marrs Hauling Landscaping & More</u> – The Board accepted an administrative citation against these Champaign County respondents.	

AC 09-56	<u>IEPA v. Gary J. and James R. Szczeblewski</u> – The Board accepted an administrative citation against these Franklin County respondents.	
AC 10-1	<u>IEPA v. Jess Spradlin d/b/a Spradlin Mobile Home Sales and Drewnard Woods and Kris Warren d/b/a W&W Auto Service</u> – The Board accepted an administrative citation against these Sangamon County respondents.	

ADJUDICATORY CASES

<p>PCB 04-215 PCB 04-216</p>	<p><u>Commonwealth Edison Company v. IEPA</u> <u>Midwest Generation EME, LLC v. IEPA v. IEPA</u> – The Board granted parties joint motion to consolidate these two trade secret appeals.</p>	<p>5-0 T-S Air</p>
<p>PCB 05-51</p>	<p><u>People of the State of Illinois v. Randy Oldenberger d/b/a Environmental Health and Safety</u> – The Board granted complainant’s motion for summary judgment. The Board found that respondent had violated Sections 9(a) and 9.1(d)(1) of the Environmental Protection Act (415 ILCS 5/9(a) and 9.1(d)(1) (2008)); 35 Ill. Adm. Code 201.141; and 40 C.F.R. 61.145(b)(1), (b)(3)(iv), (b)(4)(vi), (c)(3), and (c)(6)(i) and 61.150(a)(1) and (b). Respondent was ordered to pay a civil penalty of \$56,500.00.</p>	<p>5-0 A-E</p>
<p>PCB 06-159</p>	<p><u>People of the State of Illinois v. Gary Simmons and Lawrence County Disposal Centre, Inc.</u> – In this interim opinion and order, the Board found that respondents had violated Sections 9(a), 21(d)(1) and (d)(2), and 22.17(a) and (b) of the Environmental Protection Act (415 ILCS 5/9(a), 21 (d)(1) and (d)(2), and 22.17(a) and (b) (2008)), 35 Ill. Adm. Code 745.201(b); 811.109(a); 811.111(c)(1)(A), (c)(2), and (c)(5); 811.310(c); 811.312(c); 811.315(e)(1)(G); 811.319(a), (a)(1), (a)(2), and (a)(3); 811 .320(d)(1); 813.501; and 813.502(a) of the Boards regulations. The Board assessed civil penalties of \$10,000 against Lawrence County Disposal Centre, Inc. (Disposal Centre), \$1,000 against Gary Simmons individually. The Board assessed the time use value \$118,421.90 against the Disposal Centre to recoup the economic benefit earned through non-compliance. On or before August 27, 2009, complainant must file an affidavit of attorney fees and calculate time use value; any response is due within 21 days of receipt of the affidavit of attorney fees.</p>	<p>5-0 L-E</p>
<p>PCB 07-63</p>	<p><u>PMA & Associates, Inc. v. IEPA</u> – No action taken.</p>	<p>UST Appeal</p>
<p>PCB 08-7</p>	<p><u>People of the State of Illinois, ex rel. Lisa Madigan, Attorney General of the State of Illinois v. Union Pacific Railroad Company, a Delaware Corporation</u> – No action taken.</p>	<p>W-E</p>

PCB 08-76	<u>Anne McDonagh and David Fishbaum v. Richard Michelon and Amy Michelon</u> – The Board granted complainants’ motion to dismiss.	5-0 N-E
PCB 08-83	<u>People of the State of Illinois v. Rupe Contracting, Inc. and John A. Rupe, individually and as owner and operator of Rupe Contracting, 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 Bureau County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 08-86	<u>City of Quincy v. IEPA</u> – No action taken.	P-A, Water
PCB 08-96	<u>United City of Yorkville v. Hamman Farms</u> – No action taken.	A,L,W-E
PCB 09-3	<u>People of the State of Illinois v. Praedium Development Corporation and Plaza Excavating, Inc.</u> – In this water 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) (2006)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$40,000, and to cease and desist from further violations.	5-0 W-E
PCB 09-23	<u>People of the State of Illinois v. James R. Cantrell</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 White County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 09-27	<u>People of the State of Illinois v. Richard King, Kay King, and Isaac King</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 Sangamon County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E

PCB 09-32	<u>People of the State of Illinois v. Whalen Manufacturing Company and Yetter Manufacturing Company</u> – In this water enforcement action concerning a McDonough 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) (2006)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$20,000 (\$10,000 each), and to cease and desist from further violations.	5-0 W-E
PCB 09-38	<u>Ameren Energy Generating Company v. IEPA</u> – No action taken.	T
PCB 09-43	<u>Waste Management of Illinois, Inc. and Kendall Land and Cattle, LLC v. County Board of Kendall County</u> – No action taken.	P-C-F-S-R
PCB 09-47	<u>People of the State of Illinois v. Birds Pinkstaff Water District</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 Lawrence County facility, the Board ordered publication of the required newspaper notice.	5-0 PWS-E
PCB 09-62	<u>John Tarkowski v. IEPA</u> – The Board denied petitioner’s motion to reconsider its May 21, 2009 order.	5-0 P-A, Land
PCB 09-63	<u>J. I. Corporation 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 located in Boone County.	UST Appeal
PCB 09-66	<u>Elmhurst Memorial Healthcare and Elmhurst Memorial Hospital v. Chevron U.S.A., Inc.</u> – No action taken.	Citizens, L-E
PCB 09-93	<u>Ameren Energy Generating Company and Gibson City Power Plant v. IEPA</u> – The Board granted petitioners’ motion for a partial stay of the construction permit.	5-0 P-A, Air
PCB 09-94	<u>Ameren Energy Generating Company, Electric Energy, Inc., and Midwest Electric Power, Inc. v. IEPA</u> – The Board granted petitioners’ motion for a partial stay of the construction permit.	5-0 P-A, Air
PCB 09-95	<u>Ameren Energy Generating Company and Venice Power Plant v. IEPA</u> – The Board granted petitioners’ motion for a partial stay of the construction permit.	5-0 P-A, Air

PCB 09-96	<u>Holland Energy, LLC v. IEPA</u> – The Board granted petitioner’s motion for a partial stay of the construction permit.	5-0 P-A, Air
PCB 09-97	<u>Ameren Energy Generating Company and Elgin Energy Center v. IEPA</u> – The Board granted petitioners’ motion for a partial stay of the construction permit.	5-0 P-A, Air
PCB 09-98	<u>Amerenue and Raccoon Creek Power Plant v. IEPA</u> – The Board granted petitioners’ motion for a partial stay of the construction permit.	5-0 P-A, Air
PCB 09-99	<u>Union Electric Company d/b/a Amerenue and Goose Creek Power Plant v. IEPA</u> – The Board granted petitioners’ motion for a partial stay of the construction permit.	5-0 P-A, Air
PCB 09-100	<u>Union Electronic Company d/b/a Amerenue and Kinmundy Power Plant v. IEPA</u> – The Board granted petitioners’ motion for a partial stay of the construction permit.	5-0 P-A, Air
PCB 09-101	<u>Ameren Energy Generating Company and Grand Tower Power Plant v. IEPA</u> – The Board granted petitioners’ motion for a partial stay of the construction permit.	5-0 P-A, Air
PCB 09-114	<u>Peacock Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	5-0 UST Appeal
PCB 09-123	<u>2001 Oil Company v. IEPA</u> – The Board directed petitioner to file an amended petition to cure noted deficiencies on or before July 20, 2009, or this action will be subject to dismissal.	5-0 UST Appeal
PCB 09-129	<u>People of the State of Illinois v. Reliable Sand & Gravel Co., Inc.,</u> – The Board accepted for hearing this land enforcement action involving a site located in McHenry County.	5-0 L-E
PCB 09-130	<u>Spirit Energy, L.L.C. 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 Jackson County facility.	5-0 UST Appeal, 90 Day Ext.
PCB 09-131	<u>People of the State of Illinois v. Mohammad Akrabawi, d/b/a Deerfield Crossings, LLC</u> – The Board accepted for hearing this water enforcement action involving a site located in DeKalb County.	5-0 W-E

PCB 10-1	<u>Weeke Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility.	5-0 UST Appeal
PCB 10-2	<u>City of Chicago Department of General Services 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.	5-0 UST Appeal, 90 Day Ext.
PCB 10-3	<u>Prairie Rivers Network and Sierra Club v. IEPA and Hillsboro Energy, LLC</u> – The Board accepted for hearing this third party permit appeal involving a Montgomery County facility.	5-0 NPDES -PA, 3 rd Party
PCB 10-4	<u>Keith & Kevin Erickson - Altona v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Keith & Kevin Erickson located in Knox County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).	5-0 T-C, W
PCB 10-5	<u>Dickerson Petroleum, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a St. Clair County facility. No action was taken on petitioner’s motion to consolidate with PCB 09-87.	5-0 UST Appeal
PCB 10-6	<u>Schroud Realty Group v. IEPA</u> – No action taken.	P-A, Land
PCB 10-7	<u>Onken's Incorporated v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Mason County facility.	5-0 UST Appeal

CASES PENDING DECISION

R09-11	<u>In the Matter of: City of Galva Site Specific Water Quality Standard for Boron Discharges to Edwards River and Mud Creek: 35 Ill. Adm. Code 303.447 and 303.448</u> – Final Opinion & Order	Water
PCB 97-193 PCB 04-207	<u>People of the State of Illinois v. Community Landfill Company, Inc.</u> <u>People of the State of Illinois v. Edward Pruum and Robert Pruum</u> - Opinion & Order	L-E

PCB 09-67	<u>Prime Location Properties, LLC v. IEPA</u> (due August 6, 2009) <ul style="list-style-type: none"> • Respondent's Motion to Dismiss April 20, 2009 Amended Petition (5/26) • Petitioner's Response in Opposition to Motion to Dismiss (6/4) • Petitioner's Brief 6/29) • Agency's Response to Petitioner's Post-Hearing Brief (7/6) • Petitioner's Reply Brief (7/13) <ul style="list-style-type: none"> - Final Opinion & Order 	UST Appeal
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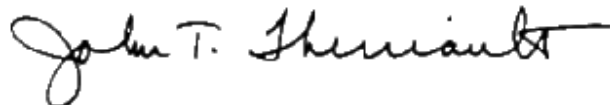
OTHER ITEMS

	The Board granted the Chairman's Motion under Section 2-06(c) of the Open Meeting Act (5 ILCS 120/2.06(c)) to continue to preserve only written minutes of closed Board deliberative sessions occurring on or before December 31, 2007, and to approve destruction of verbatim tape recordings of meetings held: July 19, August 2, August 30, September 13, September 27, October 11, October 25, November 8, November 29, and December 27, 2007.	5-0
	The Board granted the Chairman's Motion under Section 2.06(d) of the Open Meetings Act (5 ILCS 120/2.06(d)) to continue to keep confidential minutes of closed Board meetings occurring between January 1, 2009 through June 30, 2009.	5-0

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Girard adjourned the meeting at 11:44 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on August 6, 2009, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board