

# ILLINOIS POLLUTION CONTROL BOARD

## MEETING MINUTES

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**September 8, 2011**

**11:00 a.m.**

**Chicago**

100 W. Randolph Street

Chicago, IL

**9-040**

### **ANNOUNCEMENTS**

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Chairman Girard welcomed members of the public and staff.

### **ROLL CALL**

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

### **APPROVAL OF MINUTES**

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The minutes of the August 18, 2011 open meeting were approved by a vote of 5-0. The minutes of the August 25, 2011 closed deliberative session were approved by a vote of 4-0, Member Moore abstained. The minutes of the September 1, 2011 closed deliberative session were approved by a vote of 3-0, Members Moore and Zalewski abstained.

## RULEMAKINGS

<b>R 10-9(A)</b>	<u>In the Matter of: Financial Assurance Instruments--Renewal and Terms: Amendments to 35 Ill. Adm. Code 807.Subpart F, 810.104 and 811.Subpart G</u> – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s land pollution control regulations.	5-0 Land
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## ADJUSTED STANDARDS

NONE

## ADMINISTRATIVE CITATIONS

<b>AC 9-35</b>	<u>IEPA v. William and Patricia Hajek</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a DeKalb County facility, the Board found that respondents had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2008)) and ordered respondents to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondents’ petition for review. To effectuate the parties’ intent that respondent pay a total civil penalty of \$1,500, the Board on its own motion, dismissed the alleged violations of Section 21(p)(7) of the Act.	5-0
<b>AC 11-14</b>	<u>IEPA v. Jason Johnson Sr.</u> – The Board granted complainant’s motion to voluntarily dismiss the administrative citation.	5-0
<b>AC 11-23</b>	<u>IEPA v. Dennis Weiler</u> – The Board denied respondent’s motion to reconsider.	5-0
<b>AC 11-31</b>	<u>IEPA v. Patrick D. and Monique D. Patterson</u> – The Board found that these Sangamon County respondents violated Section 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (3), and (7) (2010)), and ordered respondents to pay a civil penalty of \$4,500.	5-0
<b>AC 12-1</b>	<u>IEPA v. Gaylon L. and Lois J. Harrell</u> – The Board accepted respondents’ petition for review for hearing.	5-0

## ADJUDICATORY CASES

<b>PCB 99-134</b>	<u>People of the State of Illinois v. Heritage Coal Company, LLC (f/k/a/ Peabody Coal Company, LLC)</u> – No action taken.	W-E
<b>PCB 04-16</b>	<u>People of the State of Illinois v. Packaging Personified, Inc.</u> – In this air enforcement action concerning a DuPage County facility, the Board found that Packaging violated the following: the Environmental Protection Act at 415 ILCS 5/9(a), 9(b), 39.5(5)(a), and 39.5(6)(b) (2010); the Board’s regulations at 35 Ill. Adm. Code 201.142, 201.143, 201.302(a), 203.201, 203.203(a), 203.301, 203.601, 205.300(a), 205.310(a)(1), 218.401(a), and 218.404(c); IEPA’s regulations at 35 Ill. Adm. Code 254.137(a), 254.501, and 270.201(b); and Conditions 5, 15, and 16 of construction permit 03030016 issued on August 13, 2003. The Board ordered the respondent to pay a total civil penalty of \$456,313.57, and to cease and desist from further violations.	5-0 A-E
<b>PCB 04-192</b>	<u>People of the State of Illinois v. Smithfield Properties, L.L.C., Wooton Construction, Ltd., and Chicago Sun-Times, Inc.</u> – No action taken.	L,W-E
<b>PCB 06-63</b>	<u>Dynegy Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
<b>PCB 06-71</b>	<u>Dynegy Midwest Generation, Inc. (Havana Power Station) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
<b>PCB 06-72</b>	<u>Dynegy Midwest Generation, Inc. (Hennepin Power Station) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0
<b>PCB 06-73</b>	<u>Dynegy Midwest Generation, Inc. (Vermilion Power Station) v. IEPA</u> – The Board granted Dynegy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynegy Midwest Generation, Inc.” to “Dynegy Midwest Generation, LLC”.	P-A, Air 5-0

<b>PCB 06-74</b>	<u>Dynergy Midwest Generation, Inc. (Wood River Power Station) v. IEPA</u> – The Board granted Dynergy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynergy Midwest Generation, Inc.” to “Dynergy Midwest Generation, LLC”.	P-A, Air 5-0
<b>PCB 06-194</b>	<u>Dynergy Midwest Generation, Inc. (Vermilion Power Station) v. IEPA</u> – The Board granted Dynergy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynergy Midwest Generation, Inc.” to “Dynergy Midwest Generation, LLC”.	P-A, Air 5-0
<b>PCB 07-115</b>	<u>Dynergy Midwest Generation, Inc. (Havana Power Station) v. IEPA</u> – The Board granted Dynergy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynergy Midwest Generation, Inc.” to “Dynergy Midwest Generation, LLC”.	P-A, Air 5-0
<b>PCB 07-123</b>	<u>Dynergy Midwest Generation, Inc. (Hennepin Power Station) v. IEPA</u> – The Board granted Dynergy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynergy Midwest Generation, Inc.” to “Dynergy Midwest Generation, LLC”.	P-A, Air 5-0
<b>PCB 08-30</b>	<u>E.R. 1, LLC, assignee of Caseyville Sport Choice, LLC, an Illinois Limited Liability Company v. Erma I. Seiber, Administratrix of the Estate of James A. Seiber, Deceased, and Erma I. Seiber in her individual capacity, and Fairmount Park, Inc.</u> – No action taken.	L-E, Citizens
<b>PCB 08-66</b>	<u>Dynergy Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA</u> – The Board granted Dynergy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynergy Midwest Generation, Inc.” to “Dynergy Midwest Generation, LLC”.	P-A, Air 5-0
<b>PCB 09-6</b>	<u>Dynergy Midwest Generation, Inc. (Wood River Power Station) v. IEPA</u> – The Board granted Dynergy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynergy Midwest Generation, Inc.” to “Dynergy Midwest Generation, LLC”.	P-A, Air 5-0
<b>PCB 09-9</b>	<u>Dynergy Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA</u> – The Board granted Dynergy Midwest Generation, Inc. motion to change the petitioner’s name from “Dynergy Midwest Generation, Inc.” to “Dynergy Midwest Generation, LLC”.	P-A, Air 5-0

<b>PCB 10-9</b>	<u>People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., Combe Laboratories, Inc., General Electric Railcar Services Corporation, P &amp; H Manufacturing, Inc.,</u> – Upon receipt of a proposed stipulation and settlement agreement as to Combe Laboratories, Inc., and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Macon County facility, the Board ordered publication of the required newspaper notice. In a separate order, the Board dismissed Triple S Refining Corporation as a respondent in this cost recovery action.	L-E 5-0
<b>PCB 10-23</b>	<u>United States Steel Corporation v. IEPA, American Bottom Conservancy as Intervenor</u> – No action taken.	P-A, Air
<b>PCB 10-61</b>  <b>PCB 11-2</b>	<u>People of the State of Illinois v. Freeman United Coal Mining Company and Springfield Coal Company, LLC; Environmental Law and Policy Center as Intervenor</u> <u>Environmental Law and Policy Center v. Freeman United Coal Mining Company and Springfield Coal Company, LLC</u> – No action taken.	W-E
<b>PCB 10-70</b>	<u>Wheeling/GWA Auto Shop v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 10-84</b>	<u>People of the State of Illinois v. Professional Swine Management, LLC, Hilltop View LLC, Wildcat Farms, LLC, High-Power Pork, LLC, Eagle Point, LLC, Lone Hollow, LLC, Timberline, LLC, Prairie State Gilts, Ltd., North Fork Pork, LLC, Little Timber, LLC, and Twin Valley Pumping, Inc.</u> – No action taken.	W-E
<b>PCB 10-108</b>	<u>People of the State of Illinois v. William Charles Real Estate Investment, L.L.C.,</u> – In this water enforcement action concerning a Winnebago 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$10,000.00, and to cease and desist from further violations.	5-0 W-E

<b>PCB 11-6</b>	<u>People of the State of Illinois v. American Construction, LLC, Inc., and Real Estate Elmhurst, LLC</u> – In this water enforcement action concerning a DuPage 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) (2010)), accepted a stipulation and settlement agreement as to American Construction, LLC only , and ordered respondent to pay a total civil penalty of \$2,500.00, and to cease and desist from further violations.	5-0 W-E
<b>PCB 11-21</b>	<u>People of the State of Illinois v. Prairieland Investment Group, LLC, and Kevin S. Cook, d/b/a KC Construction</u> – In this air enforcement action concerning a Hancock 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) (2010)), accepted a stipulation and settlement agreement as to Prairieland Investment Group, LLC, and ordered the respondent to pay a total civil penalty of \$50,000.00, and to cease and desist from further violations.	5-0 A-E
<b>PCB 11-26</b>	<u>People of the State of Illinois v. Lowell Null, d/b/a MAB Pallets</u> – No action taken.	L-E
<b>PCB 11-54</b>	<u>People of the State of Illinois v. Stewart Spreading, Inc.,</u> – In this air enforcement action concerning a Kendall 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$13,000.00, and to cease and desist from further violations.	5-0 A, W-E
<b>PCB 11-60</b>	<u>American Disposal Services of Illinois, Inc. v. County Board of McLean County, Illinois, Henson Disposal, Inc. and TKNTK, LLC</u> – No action taken.	L-SA, 3d P
<b>PCB 11-65</b>	<u>Chevron Environmental Management Company (10/27/09 to 9/3/10) v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 11-66</b>	<u>Chevron Environmental Management Company (8/1/2008 to 9/27/2009) v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 11-68</b>	<u>People of the State of Illinois v. Tradition Investments, LLC</u> – No action taken.	W-E

<b>PCB 11-86 PCB 12-46 (cons.)</b>	<u>Exxonmobil Oil Corporation v. IEPA</u> –The Board accepted ExxonMobil’s (petitioner) September 2, 2011 filing as a new petition for variance and granted petitioner 's motion for hearing. The Board consolidated PCB 11-86 and PCB 12-46 for hearing and decision.	5-0 A-V
<b>PCB 12-14</b>	<u>Center Point Energy, Mississippi River Transmission, LLC v. IEPA</u> – The Board granted petitioner Center Point Energy – Mississippi River Transmission, LLC motion to allow Garry L. Keele and Bryan A. Fuller to appeal <i>pro hac vice</i> on its behalf.	5-0 P-A, Air
<b>PCB 12-15</b>	<u>Gary Szczeblewski v. State Fire Marshall, Divison of Petroleum &amp; Chemical Safety</u> – The Board ordered petitioner to file an amended petition curing the noted deficiencies on or before September 30, 2011, or this docket will be dismissed.	5-0 UST Appeal
<b>PCB 12-16</b>	<u>Mark Lilly v. City of Rock Falls, IL</u> – No action taken.	A-E, Citizens
<b>PCB 12-23</b>	<u>Beneficial Reuse Management, LLC and Southern Illinois Power Cooperative v. IEPA</u> – The Board granted petitioners’ motion for a stay of the permit’s contested conditions.	5-0 P-A, Water
<b>PCB 12-27</b>	<u>People of the State of Illinois v. Industrial Enclosure Corporation</u> – The Board accepted for hearing this land enforcement action involving a site located in Kane County.	5-0 L-E
<b>PCB 12-28</b>	<u>People of the State of Illinois v. Strout Crossing, LLC, Jerry Webster, and Mark Webster</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Pike County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
<b>PCB 12-29</b>	<u>Gary Cooper v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Champaign County facility.	5-0 UST Appeal
<b>PCB 12-30</b>	<u>Village of Downers Grove v. IEPA</u> – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this DuPage County facility.	5-0 UST Appeal 90- Day Extension

<b>PCB 12-31</b>	<u>Jeff and Mitzi Sharer - Little York (Property ID No. 05-016-007-01) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Jeff and Mitzi Sharer - Little York located in Henderson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
<b>PCB 12-32</b>	<u>Jeff and Mitzi Sharer - Little York (Property ID No. 05-015-004-00) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Jeff and Mitzi Sharer - Little York located in Henderson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
<b>PCB 12-33</b>	<u>Deborah Ann Rousoncles v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Deborah Ann Rousoncles located in Henderson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
<b>PCB 12-34</b>	<u>ExxonMobil Oil Corporation, New Source Review Project v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of ExxonMobil Oil Company Farms located in Will County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, A
<b>PCB 12-35</b>	<u>People of the State of Illinois v. Six M. Corporation, Inc., William Maxwell, and Marilyn Maxwell</u> – The Board accepted for hearing this water enforcement action involving a site located in De Witt County.	5-0 W-E
<b>PCB 12-36</b>	<u>Marathon Petroleum Company, LLC, Reformulated Gasoline Blending System v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Petroleum Company, LLC located in Crawford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, A



<b>PCB 12-37</b>	<u>WRB Refining, LLC, Boiler No. 17 NOx v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, A
<b>PCB 12-38</b>	<u>WRB Refining, LLC, Distilling West H-28 NOx Reduction v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, A
<b>PCB 12-39</b>	<u>WRB Refining, LLC, Gasoline SZorb Unit v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, A
<b>PCB 12-40</b>	<u>WRB Refining, LLC, Ultralow Sulfur Diesel v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of WRB Refining, LLC located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, A
<b>PCB 12-41</b>	<u>Marathon Petroleum Company, LLC, Carbon Canisters and Degasser for Caustic Storage Tanks v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Petroleum Company, LLC located in Crawford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, A
<b>PCB 12-42</b>	<u>Bernie's Wood River Gas v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Madison County facility.	UST Appeal 5-0

<b>PCB 12-43</b>	<u>People of the State of Illinois v. Forbo Adhesives, LLC</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Grundy County facility, the Board ordered publication of the required newspaper notice.	A-E 5-0
<b>PCB 12-44</b>	<u>Anielle Lipe and Nykole Gillette v. Village of Richton Park</u> – No action taken.	A-E, Citizens
<b>PCB 12-45</b>	<u>JKL Pork, LLC - Minock (Property ID No. 04-01-300-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of JKL Pork, LLC - Minock located in Woodford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W

### **CASES PENDING DECISION**

<b>R09-19</b>	<u>In the Matter of Air Quality Standards Clean-up: Amendments to 35 Ill. Adm. Code Part 243</u> – Proposed Rule, Second Notice, Opinion & Order	Moore Air
<b>R11-20</b>	<u>In the Matter of: Amendments to 35 Ill. Adm. Code Part 229: Hospital/Medical/Infectious Waste Incinerators</u> • Scheduled for September 13, 2011 JCAR Review – Adopted Rule, Final Opinion & Order	Zalewski Air
<b>R11-22</b>	<u>In the Matter of: Amendments Under P.A. 96-908 to Regulations of Underground Storage Tanks (UST) and Petroleum Leaking UST: 35 Ill. Adm. Code 731, 732, and 734</u> – Proposed Rule, First Notice, Opinion & Order	Moore UST, L
<b>R11-23(A)</b>	<u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group II and Group IV Consumer &amp; Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219</u> – Proposed Rule, Second Notice, Opinion & Order	Moore Air

### **OTHER ITEMS**

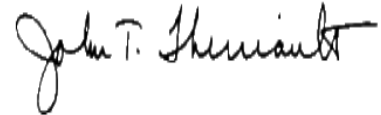
	The Chairman on behalf of the Board, thanked departing Member Gary L. Blankenship for his service to the Board and wished him well in his future endeavors.	
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## **ADJOURNMENT**

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Moved and seconded, by a vote of 5-0, Chairman Girard adjourned the meeting at 11:36 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board,  
certify that the Board approved the above minutes on September 22, 2011, by a vote of 5-0



John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board