

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



NOVEMBER 7, 2002
Chicago/Springfield Videoconference
CHICAGO OFFICE – 100 W. Randolph Street
Video Conference Room 11-512
and
SPRINGFIELD OFFICE – 600 South Second Street
Video Conference Room 402
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 Clerk of the Board called the roll and all Board Members answered present.

APPROVAL OF MINUTES

Minutes of the October 17, 2002 meeting were approved by a vote of 6-0.

RULEMAKINGS

R02-10	<u>In the Matter of: Amendments to General Permitting Provisions for Portable Emission Units: Amendments to 35 Ill. Adm. Code 201 –</u> The Board adopted a second notice opinion and order in this matter to amend the Board's air regulations.	6-0 R, Air
R03-10	<u>In the Matter of: Revision of the Board's Procedural Rules: 35 Ill. Adm. Code 101-130 –</u> The Board adopted a proposal for public comment in this rulemaking to amend the Board's procedural regulations.	6-0 R, Proc. Rules

R03-11 In the Matter of: Site-Specific Rule for City of Effingham Treatment Plant Fluoride Discharge, 35 Ill. Adm. Code 304.233 – The Board accepted for hearing the October 22, 2002 proposal of the City of Effingham for a site-specific rulemaking to amend the Board’s water pollution control regulations. The Board also granted petitioner’s motion to waive the 200 signature requirement. 6-0
R, Water

ADMINISTRATIVE CITATIONS

AC 02-7 IEPA v. Terry and Latisha Springer – The Board entered a final order requiring respondents to pay the Board and the Environmental Protection Agency hearing costs in the amount of \$339.70 and \$53.13 respectively, and a civil penalty of \$1,500. This order follows the Board's interim order of August 8, 2002, which found that these respondents had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21 (p)(1) (2000) *amended by P.A. 92-0574, eff. June 26, 2002*) and assessed a penalty of \$1,500 at respondents’ Jersey County facility. 6-0

AC 02-51 IEPA v. Gerald Goines – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Johnson County facility, the Board found respondent violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2000)) and ordered respondent to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss the alleged violations of Section 21(p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(3), (p)(7) (2000)) and the petition for review. 6-0

AC 02-61 IEPA v. Steve Koester – The Board referred complainant’s attorney’s motion for leave to withdraw to the hearing officer for deposition.

AC 03-11 City of Chicago Department of Environment v. City Wide Disposal, Inc. – The Board accepted an administrative citation against this Cook County respondent.

ADJUDICATORY CASES

Decisions

PCB 97-66	<u>People of the State of Illinois v. D'Angelo Enterprises</u> – The Board previously found that respondent violated Sections 21(f)(1) and (f)(2) of the Environmental Protection Act (Act) (415 ILCS 5/21(f)(1) and (f)(2) (2000) <i>amended by</i> P.A. 92-0574, eff. June 26, 2002), and 35 Ill. Adm. Code 703.121(a) and (b), 722.111, 728.107(a), 725.116(a) and (d), 725.135, 725.137, 725.151, 725.155, 725.274, 728.150(a)(1) and 809.301 of the Board's hazardous waste and special waste regulations. In its final order, the Board ordered the respondent to pay a total civil penalty of \$70,000 for violating the above hazardous waste and special waste provisions of the Act and the Board's regulations and \$7,893 in costs and attorney fees.	6-0 Marovitz dissented RCRA-E
PCB 02-185	<u>People of the State of Illinois v. Ferrara Pan Candy Company, Inc.</u> – In this air enforcement action concerning a Cook 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) <i>amended by</i> P.A. 92-0574, eff. June 26, 2002), accepted a stipulation and settlement agreement, ordered the respondent to pay a total civil penalty of \$371,688 and to cease and desist from further violations.	6-0 Marovitz concurring 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> – The Board granted this Peoria County facility a variance, subject to conditions, from the water regulation found at 35 Ill. Adm. Code 306.402. This allows the construction and operation of a new K-12 school building, including the attendant sanitary sewer connections to the Farmington City waste water collection system and the Farmington Sanitary District sewerage treatment plant located in Farmington.	W-V, NPDES
PCB 03-11	<u>City of Carlyle v. IEPA</u> – The Board granted this Clinton County facility a variance, subject to conditions, from the public water supply turbidity regulations found at 35 Ill. Adm. Code 611.743, 611.744, and 611.745, from November 7, 2002 to April 1, 2003.	6-0 PWS-V

PCB 03-32	<u>People of the State of Illinois v. City of Chicago Heights and Robinson Engineering, Ltd.</u> – In this public water supply enforcement action concerning a Cook 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) <i>amended by P.A. 92-0574, eff. June 26, 2002</i>), accepted a final stipulation and settlement agreement, ordered the respondent to pay a total civil penalty of \$38,000 and to cease and desist from further violations.	6-0 Marovitz concurring PWS-E
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Provisional Variances

PCB 03-64	<u>Osmose Wood Preserving, Inc. v. IEPA</u> – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted a 30-day provisional variance to this Cass County facility from the 90-day limitation on the accumulation of hazardous wastes, as set forth in 35 Ill. Adm. Code 722.134(b).	6-0 RCRA L-V
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Motions and Other Matters

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

PCB 95-78	<u>Vogue Tyre & Rubber Company v. Office of the State Fire Marshal</u> – No action taken.	UST Fund
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PCB 96-99	<u>The Belleville Development, L.P. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a St. Clair County facility.	6-0 P-A NPDES
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PCB 98-169	<u>Union Oil Company of California d/b/a Unocal v. Bargeway Oil Company, Inc., Gertrude Kellogg and Joseph Kellogg, Bargeway Oil Company, Inc. Third-Party Complainant v. Robert F. Atkins, Bargeway Systems, Inc. and Robert Nielsen</u> – The Board granted complainant’s motion for leave to file an amended complaint and accepted the complaint for hearing.	Manning Citizens L-E
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PCB 99-19	<u>Karen & Anthony Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities</u> – The Board denied complainants’ motion to reopen limited discovery and compel production of financial information.	6-0 Citizens A-E
PCB 99-134	<u>People of the State of Illinois v. Peabody Coal Company</u> – No action taken.	W-E
PCB 01-169	<u>Gerry Blohm v. Dominick’s Finer Foods</u> – The Board granted complainant’s motion for voluntary dismissal of this citizen’s noise enforcement action involving a McHenry County facility.	6-0 Citizens N-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 02-114	<u>Logan Jones Ltd. Partnership v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Cook County facility.	6-0 UST Fund
PCB 02-157	<u>David L. Weber and Rachel B. Weber v. Cisco United Methodist Church</u> – The Board denied respondent’s motion for summary judgment in this citizen’s noise enforcement action involving a Piatt County facility.	6-0 Citizens N-E
PCB 03-8	<u>Ralph Johnson Estate 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 Christian County facility.	6-0 UST Appeal
PCB 03-21	<u>Clean The Uniform Company - Highland v. Aramark Uniform & Career Apparel, Inc.</u> – The Board found that the alleged violations in the complaint were neither duplicative nor frivolous, dismissed the request for injunctive relief as frivolous, and accepted for hearing this matter involving a Madison County facility. The Board also granted counsel’s motion to appear pro hac vice.	6-0 Citizens L&W-E

PCB 03-31	<u>County of Kankakee and Edward D. Smith, State’s Attorney of Kankakee County v. The City of Kankakee, Illinois, City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; Byron Sandberg v. The City of Kankakee, Illinois, City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; and Waste Management of Illinois Inc. v. The City of Kankakee, Illinois, City Council, Town and Country Utilities, Inc., and Kankakee Regional Landfill, L.L.C. – The Board denied the County of Kankakee and Edward D. Smith, State’s Attorney of Kankakee County’s motion for expedited decision and its motion for summary judgment.</u>	6-0 P-C-F-S-R 3d Party
PCB 03-33		
PCB 03-35		
PCB 03-38	<u>Morry Gabel, Myra Gabel, Don Foreman, Marsha Foreman, Keith Pinsoneault and Tracy Pinsoneault v. The Wealshire, Inc. – The Board found that the alleged violations in the complaint were neither duplicative nor frivolous and accepted for hearing this matter involving a Lake County facility.</u>	6-0 Citizens N-E
PCB 03-43	<u>Landfill 33, Ltd. v. Effingham County Board and Sutter Sanitation Services – The Board on its own motion consolidated this matter with PCB 03-52 and accepted for hearing the amended petition.</u>	6-0 P-C-F-S-R 3d Party
PCB 03-48	<u>Mueller Shell, Inc. 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 St. Clair County facility.</u>	6-0 UST Appeal 90-Day Ext.
PCB 03-49	<u>Karco, Inc. 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 Jackson County facility.</u>	6-0 UST Appeal 90-Day Ext.

PCB 03-50	<u>East Side Shell 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 Fulton County facility.	6-0 UST Appeal 90-Day Ext.
PCB 03-51	<u>People of the State of Illinois v. Draw Drape Cleaners, Inc.</u> – The Board accepted for hearing this air enforcement action involving a Cook County facility.	6-0 A-E
PCB 03-52	<u>Stock & Company, L.L.C. v. Effingham County Board and Sutter Sanitation Service, Inc.</u> – The Board accepted for hearing this third-party pollution control facility siting appeal involving an Effingham County facility and on its own motion consolidated this matter with PCB 03-43.	6-0 P-C-F-S-R 3d Party
PCB 03-53	<u>People of the State of Illinois v. Northern Building Concepts, Inc. and Landscape Concepts Construction, Inc.</u> – The Board accepted for hearing this water enforcement action involving a Lake County facility.	6-0 W-E
PCB 03-54	<u>Freedom Oil Company 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 Edgar County facility.	6-0 UST Appeal 90-Day Ext.
PCB 03-55	<u>2222 Elston L.L.C. v. Purex Industries, Inc., Federal Die Casting Co., Federal Chicago Corp., Raymond E. Cross, Beverly Bank Trust No. 8-7611, and Lakeside Bank Trust Nos. 10-1087 & 10-1343</u> – The Board held for a later duplicitous/frivolous determination this citizen’s underground storage tank enforcement action involving a Cook County facility.	Citizens UST-E

PCB 03-56	<u>Freedom Oil Company 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 Edgar County facility.	6-0 UST Appeal 90-Day Ext.
PCB 03-57	<u>Leslie C. Ko 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 Williamson County facility.	6-0 UST Appeal 90-Day Ext.
PCB 03-58	<u>Pechiney Plastic Packaging, Inc. 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 Kane County facility.	6-0 P-A 90-Day Ext.
PCB 03-59	<u>Godfrey Sunoco 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.	6-0 UST Appeal 90-Day Ext.
PCB 03-60	<u>V.W. Bowman Oil Company 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 Union County facility.	6-0 UST Appeal 90-Day Ext.
PCB 03-61	<u>Brock Oil Company 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 McLean County facility.	6-0 UST Appeal 90-Day Ext.

PCB 03-62 Brock Oil Company 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 Vermilion County facility.

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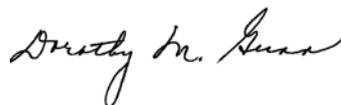
PCB 03-63 Goben Oil Company v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Clark County facility.

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ADJOURNMENT

Moved and seconded, by a vote of 6-0, 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 November 21, 2002 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board