

# ILLINOIS POLLUTION CONTROL BOARD

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## MEETING MINUTES



**JANUARY 23, 2003  
CHICAGO OFFICE  
CONFERENCE ROOM 11-512  
11:00 A.M.**

### **ANNOUNCEMENTS**

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

### **ROLL CALL**

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The Clerk of the Board called the roll. All Board Members answered present except for Board Members Padovan who was absent and Marovitz who arrived to join the Board's decision of R03-19 and latter actions.

### **APPROVAL OF MINUTES**

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Minutes of the January 9, 2003 meeting were approved by a vote of 4-0, Member Karpel abstained.

### **RULEMAKINGS**

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<b>R02-21</b>	<u>In the Matter of: Petition of Central Illinois Light Company (E.D. Edwards Generating Station) for a Site-Specific Air Regulation: 35 Ill. Adm. Code 214.561</u> – The Board adopted a first notice opinion and order in this matter to amend the Board's air regulations.	5-0 R, Air
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**R03-19**      In the Matter of: Proposed Amendments to Public Participation Rules in 35 Ill. Adm. Code Part 309 NPDES Permits and Permitting Procedures – The Board accepted for hearing the Environmental Law and Policy Center of the Midwest, Illinois Chapter of the Sierra Club, the Prairie Rivers Network, and 225 citizen petitioners’ January 13, 2003 proposal to amend the Board’s water pollution control regulations.      6-0  
R, Water

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**ADJUSTED STANDARDS**

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**AS 03-1**      In the Matter of: Petition of Exelon Generation Company for and Adjusted Standard from 35 Ill. Adm. Code 302.208 – No action taken.      Water

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**ADMINISTRATIVE CITATIONS**

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**AC 03-17**      IEPA v. Village of Metamora – The Board accepted an administrative citation against this Woodford County respondent.

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**AC 03-18**      IEPA v. Jerry Summers – The Board accepted an administrative citation against this Fayette County respondent.

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**AC 03-19**      IEPA v. Harley Lafary d/b/a Lafary Construction, Harris Lafary and Larry Payne, Sr. – The Board accepted an administrative citation against these McDonough County respondents.

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**ADJUDICATORY CASES**

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Decisions

**PCB 97-89**      People of the State of Illinois v. API Industries, Inc. – 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) (2002), accepted a final stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$50,000, and to cease and desist from further violations.      6-0  
A-E

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<b>PCB 01-135</b>	<u>People of the State of Illinois v. Patrick Robert Land Trust</u> – The Board entered an order requiring respondent to reimburse the Office of the Attorney General \$2,730.90 for attorney fees. This order follows the Board's interim order of September 19, 2002, which found that this respondent had violated Sections 12(a) and 21(a), (d), and (p) of the Act (415 ILCS 5/12(a), 21(a), (d), (p) (2002) and 35 Ill. Adm. Code 812.101(a) and assessed a penalty of \$12,000.	5-1 Marovitz dissented  L-E
<b>PCB 01-150</b>	<u>People of the State of Illinois v. Marc Development Corporation and Silver Glen Estates Homeowners' Association</u> – In this water enforcement action concerning a Kane 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) (2002)), and accepted a final stipulation and settlement agreement for the Silver Glen Estates Homeowners' Association (Silver Glen) only. Silver Glen was ordered to pay a civil penalty of \$2,000. Silver Glen was ordered to cease and desist from further violations. This matter shall proceed against the remaining respondent, Marc Development Corporation.	6-0 W-E
<b>PCB 03-39</b>	<u>Mineral Solutions, Inc. v. IEPA</u> – The Board struck as unnecessary to accomplish the purpose of the Environmental Protection Act (Act) a temporary waste suspension permit condition that required petitioner to submit proof of local siting approval pursuant to Section 39.2 of the Act (415 ILCS 5/39.2 (2002)) prior to accepting more waste. The Board remanded the permit to the Illinois Environmental Protection Agency to issue the permit consistent with this opinion and order.	6-0 P-A, Land
<b>PCB 03-74</b>	<u>People of the State of Illinois v. City of Georgetown &amp; T.K. Fleming Construction, Inc.</u> – In this public water supply enforcement action concerning a Vermilion 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) (2002)), and accepted a final stipulation and settlement agreement for the City of Georgetown (Georgetown) only. Georgetown was ordered to pay a civil penalty of \$500. Georgetown was ordered to cease and desist from further violations. This matter shall proceed against the remaining respondent, T.K. Fleming Construction, Inc.	6-0 PWS-E

Motions and Other Matters

<b>PCB 95-78</b>	<u>Vogue Tyre &amp; Rubber Company v. Office of the State Fire Marshal</u> – The Board denied petitioner’s motion to reconsider the Board’s December 5, 2002 decision.	6-0 P-A, Land
<b>PCB 96-98</b>	<u>People of the State of Illinois v. Skokie Valley Asphalt, Co., Edwin L. Frederick, Jr. individually and as owner and President of Skokie Valley Asphalt Co., Inc. and Richard J. Frederick, Jr. individually and as owner and President of Skokie Valley Asphalt Co., Inc.</u> – No action taken.	W-E
<b>PCB 96-143</b>	<u>People of the State of Illinois v. Michel Grain Company, Inc. d/b/a Michel Fertilizer, Caryle Michel, Ronnie Todd, and Ronnie Todd Land Trust</u> – No action taken.	W-E
<b>PCB 98-80</b>	<u>People of the State of Illinois v. Craig Linton and Randall G. Rowe</u> – Respondent’s attorney’s motion to withdraw as counsel was referred to the hearing officer for disposition.	L-E
<b>PCB 01-2</b>	<u>People of the State of Illinois v. National Material L.P. d/b/a National Lamination Company, and NM Holding, Inc.</u> – The Board granted complainant’s motion for leave to file an amended complaint and accepted the first amended complaint for hearing.	6-0 A-E
<b>PCB 02-56</b>	<u>People of the State of Illinois v. Chiquita Processed Foods, L.L.C.</u> – No action taken.	W-E
<b>PCB 02-77</b>	<u>People of the State of Illinois v. Millenium Recycling &amp; Solid Waste Consultants, Inc.</u> – The Board granted an attorney’s motion to withdraw as counsel for respondent.	6-0 L-E
<b>PCB 02-157</b>	<u>David L. &amp; Rachel B. Weber v. Cisco Methodist Church</u> – The Board granted complainants’ motion to dismiss this noise enforcement action involving a Piatt County facility.	6-0 N-E

<b>PCB 02-162</b>	<u>People of the State of Illinois v. Fox Valley Dry Wall, Inc.</u> – No action taken.	L-E
<b>PCB 02-164</b>	<u>Barbara and Ronald Stuart v. Franklin Fisher</u> – The Board denied the County of Will’s motion to intervene.	6-0 Citizens N-E
<b>PCB 03-36</b>	<u>D&amp;R Service v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Randolph County facility.	6-0 UST Appeal
<b>PCB 03-48</b>	<u>Mueller Shell , Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a St. Clair County facility.	6-0 UST Appeal
<b>PCB 03-49</b>	<u>Karco, 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 Jackson County facility.	6-0 UST Appeal
<b>PCB 03-51</b>	<u>People of the State of Illinois v. Draw Drape Cleaners, Inc.</u> – No action taken.	A-E
<b>PCB 03-54</b>	<u>Freedom Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Edgar County facility.	6-0 UST Appeal
<b>PCB 03-55</b>	<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 &amp; 10-1343</u> – The Board denied the City of Chicago’s (City) motion to intervene, noting that the City could file its own enforcement action.	6-0 Citizens UST-E

<b>PCB 03-56</b>	<u>Freedom Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Edgar County facility.	6-0 UST Appeal
<b>PCB 03-82</b>	<u>PPG Industries, Inc. v. IEPA</u> – No action taken.	P-A, Air
<b>PCB 03-95</b>	<u>Abitec Corporation v. IEPA</u> – No action taken.	P-A, Air
<b>PCB 03-96</b>	<u>Martin E. &amp; Kathy L. Geber v. Clayton Moushon, Carri Scharf Trucking and Materials, City of East Peoria, Mayor Chuck Dobbelaire, and City Administrator James Brimberry</u> – The Board held for a later duplicative/frivolous determination this citizen’s noise enforcement action involving a Tazewell County facility.	Citizens N-E
<b>PCB 03-98</b>	<u>Nielsen &amp; Bainbridge, L.L.C. v. IEPA</u> – The Board accepted for hearing this air permit appeal involving a Cook County facility. No action was taken on petitioner’s request for stay of CAAPP permit.	6-0 P-A, Air
<b>PCB 03-99</b>	<u>Sather Enterprises, Ltd. 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 Dewitt County facility.	6-0 UST Appeal 90-Day Ext.
<b>PCB 03-100</b>	<u>People of the State of Illinois v. National Container Services Corporation</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	6-0 A-E
<b>PCB 03-101</b>	<u>People of the State of Illinois v. Werner Co.</u> – The Board accepted for hearing this air enforcement action involving a Cook County facility.	6-0 A-E
<b>PCB 03-102</b>	<u>U.S. Department of Energy v. IEPA</u> – The Board granted this	6-0

request for a 90-day extension of time to file a permit appeal on behalf of this DuPage County facility.	P-A, RCRA 90-Day Ext.
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<b>PCB 03-103</b> <u>Eugene J. and Ruth A. Brummer-Dieterich v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Eugene J. and Ruth A. Brummer-Dieterich located in Effingham County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	6-0 T-C
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<b>PCB 03-104</b> <u>Waste Management of Illinois, Inc. v. County Board of Kane County, Illinois</u> – The Board accepted for hearing this pollution control facility sitting appeal involving a Kane County facility.	6-0 P-C-F-S-R
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<b>PCB 03-105</b> <u>Freedom Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Edgar County facility.	6-0 UST Appeal
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<b>PCB 03-106</b> <u>Village of South Elgin v. Waste Management of Illinois, Inc.</u> – The Board held for a later duplicative/frivolous determination this citizen’s land enforcement action involving a Kane County facility.	Citizens L-E
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<b>PCB 03-107</b> <u>Willaredt 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 Macon County facility.	6-0 UST Appeal 90 Day Ext.
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**CASES PENDING DECISION**

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**PCB 03-43**    Landfill 33, LTD. v. Effingham County Board and Sutter Sanitation    P-C-F-S-R  
**PCB 03-52**    Services; Stock & Company, L.L.C. v. Effingham County Board  
**(Cons.)**        and Sutter Sanitation Services (due 2/20)        3d Party

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**OTHER ITEMS**

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Chairman's Motion to Correct 2003 Deliberative Session Dates:  
May 6 to May 8, and December 9 to December 11 was adopted by  
a vote of 6-0.

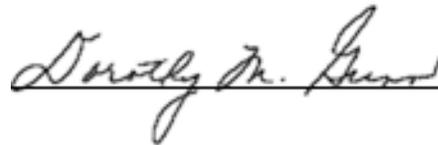
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**ADJOURNMENT**

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Moved and seconded, by a vote of 6-0, Chairman Johnson adjourned the meeting at  
11:35 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board  
approved the above minutes on January 23, 2003 by a vote of.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board