

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



May 7, 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 April 16, 2009 open meeting and April 30, 2009 closed deliberative session were approved by a vote of 5-0.

RULEMAKINGS

R08-17	<u>In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources Proposed New 35 Ill. Adm. Code Part 223</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 first notice opinion and order in this rulemaking to amend the Board’s air pollution control regulations.	5-0 Air
R09-20	<u>In the Matter of: Nitrogen Oxide (NOx) Trading Program Sunset Provisions for Electric Generating Units (EGU's): New 35 Ill. Adm. Code 217.751</u> – The Board accepted for hearing the Illinois Environmental Protection Agency’s April 21, 2009 proposal to amend the Board’s air pollution control regulations. The Board also authorized a first notice proposal for publication, without comments on the merits, and denied the motion for expedited decision.	5-0 Air

ADJUSTED STANDARDS

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> – No action taken.	Land
AS 09-4	<u>In the Matter of: Petition of Royal Fiberglass Pools, Inc. for an Adjusted Standard from 35 IAC 215.301</u> – No action taken.	Air

ADMINISTRATIVE CITATIONS

AC 09-34	<u>IEPA v. Jack Campbell</u> – The Board found that this White County respondent violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1),(p)(7) (2006)), and ordered respondent to pay a civil penalty of \$3,000.	5-0
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AC 09-36	<u>County of Sangamon v. Landers' Children Family, LLC</u> – The Board found that this Sangamon 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) (2006)), and ordered respondent to pay a civil penalty of \$4,500.	5-0
AC 09-38	<u>IEPA v. Thomas, Wayne and Valerie Hill</u> – The Board found that these Union County respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1),(p)(7) (2006)), and ordered respondents to pay a civil penalty of \$1,500.	5-0
AC 09-39	<u>IEPA v. Donald Sapp</u> – The Board directed respondent to file an amended petition for review on or before June 8, 2009, or this action will be subject to dismissal.	5-0
AC 09-40	<u>IEPA v. Thomas and Valerie Hill</u> – The Board accepted an administrative citation against these Union County respondents.	

ADJUDICATORY CASES

PCB 04-116	<u>Oasis Industries, Inc. v. IEPA</u> – The Board granted this Kane County facility’s motion for voluntary dismissal of this permit appeal.	5-0 P-A, Air
PCB 05-51	<u>People of the State of Illinois v. Randy Oldenberger d/b/a Environmental Health and Safety</u> – No action taken.	A-E
PCB 07-44	<u>Indian Creek Development Company, an Illinois partnership, individually as beneficiary under trust 3291 of the Chicago Title and Trust Company dated December 15, 1981 and the Chicago Title and Trust Company, as trustee under trust 3291, dated December 15, 1981 v. The Burlington Northern Santa Fe Railway Company, a Delaware company</u> – No action taken.	Citizens L, W-E
PCB 07-53	<u>People of the State of Illinois v. Moline Place Development, L.L.C. and Crosstowne Place Development, L.L.C.</u> – No action taken.	W-E
PCB 07-63	<u>PMA & Associates, Inc. v. IEPA</u> – No action taken.	UST Appeal

PCB 07-146	<u>Fox Moraine, LLC v. United City of Yorkville, City Council: Kendall County, Intervenor</u> – The Board granted petitioner’s motion to “check out” a copy of the record for use in writing its closing brief. The record must be returned by petitioner on June 12, 2009.	5-0 P-C-F-S-R
PCB 08-7	<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.	W-E
PCB 08-12	<u>Loretta Thigpen v. Morton Mobile Home Park, LLC, d/b/a Edgewood Terrace Mobile Home Park</u> – The Board granted this Tazewell County complainant’s motion for voluntary dismissal of this citizen’s enforcement action.	5-0 W-E, Citizens
PCB 08-45	<u>People of the State of Illinois v. Distinctive Homes, Ltd and Distinctive Companies, Ltd.</u> – In this water 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) (2006)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$10,000, and to cease and desist from further violations.	5-0 W-E
PCB 08-62	<u>People of the State of Illinois v. Carri Scharf Materials Company, d/b/a Farmdale Sand & Gravel Pit</u> – In this water enforcement action concerning a Tazewell 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 respondent to pay a total civil penalty of \$7,000, and to cease and desist from further violations.	5-0 W-E
PCB 08-86	<u>City of Quincy v. IEPA</u> – No action taken.	P-A, Water
PCB 09-16	<u>People of the State of Illinois v. MII, Inc.</u> – In this water 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) (2006)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$15,000, and to cease and desist from further violations. Respondent also agreed to pay investigative costs in the amount of \$10,000.	5-0 L,N-E

PCB 09-25	<u>City of Joliet v. IEPA</u> – The Board denied petitioner’s motion to strike portions of respondent’s response brief and affirmed respondent’s September 12, 2008 denial of petitioner’s requested permit modification.	4-1 Johnson dissented P-A, Water
PCB 09-36	<u>Apollo Plastics Corporation v IEPA</u> – The Board granted this Cook County facility’s motion for voluntary dismissal of this permit appeal.	5-0 P-A, Air
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 09-44	<u>Apollo Plastics Corporation v IEPA</u> – The Board granted this Cook County facility’s motion for voluntary dismissal of this permit appeal.	5-0 P-A, Air
PCB 09-45	<u>Jerrald R. West II v. Nakomis Quarry Company</u> – No action taken.	A-E
PCB 09-48	<u>Dynegy Midwest Generation v. IEPA</u> – The Board grants petitioner a variance a period beginning July 1, 2009 until March 31, 2010 from the requirements of Sections 35 Ill. Adm. Code 225.233(c)(1)(A), 225.233(c)(2), 225.233(c)(5), and 225.210(b) and (d), subject to the conditions.	5-0 A-V
PCB 09-62	<u>John Tarkowski v. IEPA</u> – No action taken.	P-A, Land
PCB 09-66	<u>Elmhurst Memorial Healthcare and Elmhurst Memorial Hospital v. Chevron U.S.A., Inc.</u> – The Board found that the complaint was neither duplicative nor frivolous and accepted for hearing this citizen’s land enforcement action involving a site located in DuPage County.	5-0 Citizens L-E
PCB 09-67	<u>Prime Location Properties, LLC v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Massac County facility.	5-0 UST Appeal

PCB 09-73	<u>People of the State of Illinois v. Summer Ridge, L.L.C. and Stark Excavating, Inc.</u> – In this water enforcement action concerning a Peoria 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 \$15,000, and to cease and desist from further violations.	5-0 W-E
PCB 09-82	<u>Sangamon Prairie Pork Farm - Williamsville v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Sangamon Prairie Pork Farm located in Sangamon County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
PCB 09-83	<u>North Fork Pork, LLC - West Point v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of North Fork Pork, LLC located in Hancock County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
PCB 09-84	<u>Red Oak Hills, LLC - New Salem v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Red Oak Hills, LLC located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
PCB 09-85	<u>Dan Reed - Illinois City v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dan Reed located in Rock Island County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W

PCB 09-86	<u>Red Oak Hills, LLC - Newman v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Red Oak Hills, LLC located in Douglas County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
PCB 09-87	<u>Dickerson Petroleum, Inc. v. IEPA</u> – The Board directed petitioner to file an amended petition on or before June 8, 2009, or this action will be subject to dismissal.	5-0 UST Appeal
PCB 09-88	<u>Deer View LLC - West Point v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Deer View LLC located in Hancock County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
PCB 09-89	<u>Lone Hollow, LLC - Bowen v. IEPA</u> – <u>Deer View LLC - West Point v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Lone Hollow, LLC located in Hancock County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
PCB 09-90	<u>Wildcat Farms, LLC - Dallas City v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Wildcat Farms, LLC located in Hancock County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
PCB 09-91	<u>People of the State of Illinois v. Ken Rawson, individually</u> – Board accepted for hearing this water enforcement action involving a site located in McHenry County.	5-0 W-E
PCB 09-92	<u>Dynegy Midwest Generation (Tilton Energy Center) v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Vermillion County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air

PCB 09-93	<u>Ameren Energy Generating Company and Gibson City Power Plant v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Ford County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in 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 accepted for hearing this permit appeal involving a Massac County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in 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 accepted for hearing this permit appeal involving a Madison County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
PCB 09-96	<u>Holland Energy, LLC v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Shelby County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in 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 accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
PCB 09-98	<u>Amerenue and Raccoon Creek Power Plant v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Clay County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in 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 accepted for hearing this permit appeal involving a Cook County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in 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 accepted for hearing this permit appeal involving a Marion County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in 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 accepted for hearing this permit appeal involving a Jackson County facility. No action was taken on petitioner’s motion for partial stay of specified conditions in the construction permit.	5-0 P-A, Air
PCB 09-102	<u>Peter Arendovich v. the Illinois State Toll Highway Authority</u> – No action taken.	N-E
PCB 09-103	<u>Sangamon Prairie Port Farm – Williamsville v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Sangamon Prairie Pork Farm located in Sangamon County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
PCB 09-104	<u>People of the State of Illinois v. Village of Rockton</u> – The Board accepted for hearing this water enforcement action involving a site located in Winnebago County.	5-0 W-E

CASES PENDING DECISION

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> Proposed Rule, Second Notice, Opinion & Order	Air
R09-8	<u>In the Matter of: Proposed Site Specific Rule for City of Springfield, Illinois, Office of Public Utilities, City Water, Light and Power and Springfield Metro Sanitary District From 35 Ill. Adm. Code Section 302.208(g)</u> <ul style="list-style-type: none"> • Scheduled for JCAR Review May 19, 2009 <ul style="list-style-type: none"> – Adopted Rule, Final Order, Opinion & Order 	Air

R09-10	<u>In the Matter of: Amendments to 35 Ill. Adm. Code 225: Control of Emissions From Large Combustion Sources (Mercury Monitoring)</u> <ul style="list-style-type: none">• Scheduled for JCAR Review May 19, 2009<ul style="list-style-type: none">– Adopted Rule, Final Order, Opinion & Order	Air
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OTHER ITEMS

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Girard adjourned the meeting at 11:43 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on May 21, 2009, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board