

# ILLINOIS POLLUTION CONTROL BOARD

## MEETING MINUTES

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**March 18, 2010**

### **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**

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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 March 4, 2010 open meeting and the March 11, 2010 closed deliberative session were approved by a vote of 5-0.

## RULEMAKINGS

<p><b>R 06-22</b></p>	<p><u>In the Matter of: NOx Trading Program: Amendments to 35 Ill. Adm. Code Part 217</u> – No action taken.</p>	<p>Air</p>
<p><b>R 08-9</b></p>	<p><u>In The Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System (CAWS) and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304</u> – The Board granted the motion filed by Citgo Petroleum Corporation and PDV Midwest LLC for an additional hearing on Asian Carp, but delays that hearing until later this year. The Board also granted the motion filed by the Environmental Law and Policy Center, Friends of the Chicago River, Sierra Club Illinois Chapter, Natural Resources Defense Council and Openlands to sever the docket. Subdocket A, will deal with the issues related to recreational use designations and subdocket B will address issues relating to disinfection and whether or not disinfection may or may not be necessary to meet those use designations. Subdocket C, will be created to address the issues involving proposed aquatic life uses. Subdocket D, will be created to address the issues dealing with water quality standards and criteria which are necessary to meet the aquatic life use designations. In addition, the Board granted the motion filed by the Metropolitan Water Reclamation District of Greater Chicago (District) to hold hearings on aquatic life uses and the District’s Habitat Reports.</p>	<p>5-0 Water</p>
<p><b>R 09-16</b> <b>R 10-4</b> (cons.)</p>	<p><u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2008 through December 31, 2008)</u> <u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2009 through June 30, 2009)</u> – The Board extended the deadline for completion of amendments in this “identical-in-substance” rulemaking from April 15, 2010 to September 13, 2010.</p>	<p>5-0 Land</p>
<p><b>R 10-10</b></p>	<p><u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions From Group III Consumer &amp; Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 218 and 219</u> – The Board timely adopted a final opinion and order in this fast-track rulemaking which amended the Board’s air pollution control regulations.</p>	<p>5-0 Air</p>
<p><b>R 10-19</b></p>	<p><u>Procedural Rules for Determination Under P. A. 95-115 (Phosphorous in Detergents Act), 35 IAC 106, Subpart H</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s procedural rules.</p>	<p>5-0 Proc.</p>

<b>R 10-20</b>	<u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group IV Consumer &amp; Commercial Products: Proposed Amendments to 35 Il. Adm. Code 211, 218, and 219</u> – The Board timely adopted a first notice opinion and order in this fast-track rulemaking to amend the Board’s air pollution control regulations.	5-0 Air
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## ADJUSTED STANDARDS

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### ADMINISTRATIVE CITATIONS

<b>AC 07-63</b>	<u>IEPA v. Clinton D. &amp; Ruth H. Jordan</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket.	5-0
<b>AC 10-9</b>	<u>IEPA v. Tony A. Luttrell</u> – The Board granted the Agency’s motion to reconsider, vacated the Board’s January 21, 2010 order, and issued a new order. The Board found that this Clay County respondent violated Sections 21(p) (1) and (p) (7) of the Act (415 ILCS 5/21(p) (1), (p) (7) (2008)). Because this is a second or subsequent adjudicated violation of Section 21(p) (1) and (p) (7) ( <i>see IEPA v. Tony A. Luttrell</i> , AC 02-48 (May 2, 2002) and <u>IEPA v. Tony A. Luttrell</u> , AC 03-1 (September 5, 2002)), respondent is subject to a total civil penalty of \$6,000.	5-0
<b>AC 10-16</b>	<u>County of Ogle v. Richard Haan, Jr</u> – The Board found that this Ogle County respondent violated Sections 21(p) (1), (p) (3) and (p) (7) of the Act (415 ILCS 5/21(p) (1), (p) (3) and (p) (7) (2008)). Because this is a second or subsequent adjudicated violation of Section 21(p) (1) and (p) (3) ( <i>see County of Ogle v. Richard Haan, Jr.</i> , AC 92-29 (May 21, 1992) and <u>County of Ogle v. Richard Haan, Jr.</u> , AC 92-38 (June 23, 1992)), respondent is subject to a total civil penalty of \$7,500.	5-0
<b>AC 10-17</b>	<u>Perry County Solid Waste Management Dept. v. Perry Ridge Landfill</u> – No action taken.	

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## ADJUDICATORY CASES

<b>PCB 07-44</b>	<u>Indian Creek Development Company and the Chicago Title and Trust Company v. The Burlington Northern Santa Fe Railway Company</u> – No action taken.	L, W-E, Citizens
<b>PCB 07-53</b>	<u>People of the State of Illinois v. Moline Place Development, L.L.C.</u> – No action taken.	W -E
<b>PCB 07-63</b>	<u>PMA &amp; Associates, Inc. v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 08-96</b>	<u>United City of Yorkville v. Hamman Farms</u> – No action taken.	A,L,W-E
<b>PCB 09-38</b>	<u>Ameren Energy Generating Company v. IEPA</u> – The Board granted petitioner’s request to modify site specific thermal standards for heated effluent discharge; in May and October from the Coffeen Power Station into Coffeen Lake, subject to conditions.	4-0 Zalewski abstained W-TD
<b>PCB 09-66</b>	<u>Elmhurst Memorial Healthcare and Elmhurst Memorial Hospital v. Chevron U.S.A., Inc.</u> – The Board denied complainants’ motion to strike affirmative defenses II and III and granted complainants’ motion to strike affirmative defenses IV, V, VI, VII, VIII, and IX.	5-0 Citizens, L-E
<b>PCB 09-87</b> <b>PCB 10-5</b> <b>(cons.)</b>	<u>Dickerson Petroleum, Inc. v. IEPA</u> <u>Dickerson Petroleum, Inc. v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 10-13</b>	<u>Jon Chualovsky v. Commonwealth Edison</u> – No action taken.	Citizens, N-E
<b>PCB 10-22</b>	<u>People of the State of Illinois v. Western Sand &amp; Gravel Company, LLC</u> – In this land enforcement action concerning a LaSalle 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) (2008)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$3,120.00, and to cease and desist from further violations.	5-0 L-E
<b>PCB 10-35</b>	<u>North Aurora Gas Station (F/N/A Intermart, Inc.) v. IEPA</u> – No action taken.	UST Appeal

<b>PCB 10-38</b>	<u>Paradigm Properties, Inc. (Incident-Claim No.: 20090-183-56957) 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 Coles County facility.	5-0 UST Appeal, 90-Day Extension
<b>PCB 10-39</b>	<u>Paradigm Properties, Inc. (Incident-Claim No.: 20090183-57514) 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 Coles County facility.	5-0 UST Appeal, 90-Day Extension
<b>PCB 10-54</b>	<u>Zervos Three, Inc. v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 10-61</b>	<u>People of the State of Illinois v. Freeman United Coal Mining Company, LLC, and Springfield Coal Company, LLC</u> – No action taken.	W-E
<b>PCB 10-68</b>	<u>Janmaria Properties, 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 Cook County facility.	5-0 UST Appeal, 90-Day Extension
<b>PCB 10-69</b>	<u>Catherine Thomas d/b/a Thomas 12th Street Disposal 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 Vermilion County facility.	5-0 P-A, Land, 90-Day Extension
<b>PCB 10-70</b>	<u>Wheeling/GWA Auto Shop 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 Extension

### **CASES PENDING DECISION**

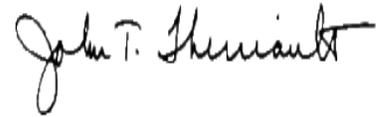
<b>R06-20 (B)</b>	<u>In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil, 35 Il. Adm. Code 739, 808, 809</u> – Proposed Rule, Second Notice, Opinion & Order	Land
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### **OTHER ITEMS**

### **ADJOURNMENT**

Moved and seconded, by a vote of 5-0, Chairman Girard adjourned the meeting at 11:24 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on April 1, 2010, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board