

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



July 15, 2010

Chicago
100 W. Randolph Street
Chicago, IL

Room 9-040

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. Five Board Members answered present.

APPROVAL OF MINUTES

The minutes of the July 1, 2010 open meeting were approved by a vote of 5-0. The minutes of the July 8, 2010 closed deliberative session were approved by a vote of 4-0, Chairman Girard abstained.

RULEMAKINGS

R 06-22	<u>In the Matter of: NOx Trading Program: Amendments to 35 Ill. Adm. Code Part 217 – No action taken.</u>	Air
R 08-9 (B)	<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 (Disinfection Necessary to Meet Use Designations ?) – No action taken.</u>	Water
R 10-19	<u>Procedural Rules for Authorizations Under P. A. 95-115 (Regulation of Phosphorus in Detergents Act), 35 Il. Adm. Code 106.Subpart H – The Board adopted a final opinion and order in this rulemaking amending the Board’s procedural rules.</u>	5-0 Proc.
R 10-20	<u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group IV Consumer & Commercial Products: Proposed Amendments to 35 Il. Adm. Code 211, 218, and 219 – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s air pollution regulations.</u>	5-0 Air

ADJUSTED STANDARDS

AS 07-6	<u>In the Matter of: Petition of Cabot Corporation for an Adjusted Standard from 35 Ill. Adm. Code Part 738, Subpart B – The Board granted petitioner’s motion to lift the stay in this proceeding and to amend the petition.</u>	5-0 Land
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 – No action taken.</u>	Land

ADMINISTRATIVE CITATIONS

<p>AC 04-89 AC 04-90 AC 04-91</p>	<p><u>IEPA v. Earl & Norma Martin (IEPA # 305-04-AC)</u> <u>IEPA v. Earl & Norma Martin (IEPA # 306-04-AC)</u> <u>IEPA v. Earl & Norma Martin (IEPA # 308-04-AC)</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Knox County facility, the Board found that respondents had violated Sections 21(p)(1), (p)(3), and (p)(4) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(4) (2008)) and ordered respondents to pay a civil penalty of \$4,500. The Board also granted the parties’ joint motion to dismiss respondents’ petition for review. To effectuate the parties’ intent that respondents pay a total civil penalty of \$4,500, the Board, on its own motion, dismissed all other alleged violation of Sections 21(p) (5) and (p)(7) of the Act.</p>	<p style="text-align: right;">5-0</p>
<p>AC 06-35</p>	<p><u>IEPA v. Jerry L. Watson</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Williamson County facility, the Board found that respondent had violated Section 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(7) (2008)) and ordered respondent to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondent’s 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 violation of Section 21(p)(1) of the Act.</p>	<p style="text-align: right;">5-0</p>
<p>AC 09-39</p>	<p><u>IEPA v. Donald Sapp</u> – The Board granted complainant’s motion to voluntarily dismiss this administrative citation and closed the docket.</p>	<p style="text-align: right;">5-0</p>

<p>AC 10-4</p>	<p><u>County of Ogle v. Kathy Knutson, Steve Knutson, and Dan Bocker</u> – The Board granted respondent Dan Bocker’s motion to vacate the Board’s November 19, 2009 entry of a default judgment against him and accepted the parties’ proposed settlement of the case and dismissal of the petition for review of respondents Kathy and Steve Knutson. In response to a joint stipulation and settlement agreement in this administrative citation action involving a Knox County facility, the Board found that respondents had violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2008)) and ordered respondents to pay a civil penalty of \$3,000. The Board also granted the parties’ joint motion to dismiss respondents’ petition for review. To effectuate the parties’ intent that respondents pay a total civil penalty of \$3,000, the Board on its own motion, dismissed the alleged violation of Section 21(p)(5) and (p)(7) of the Act.</p>	<p>5-0</p>
<p>AC 10-21</p>	<p><u>IEPA v. David Charles Bettis</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Greene County facility.</p>	<p>5-0</p>
<p>AC 10-28</p>	<p><u>IEPA v. Gary J. and James R. Szczeblewski</u> – The Board accepted for hearing respondents’ petition for review of this administrative citation involving a Franklin County facility.</p>	<p>5-0</p>

ADJUDICATORY CASES

<p>PCB 00-211</p>	<p><u>People of the State of Illinois v. Toyal America, Inc. f/k/a Alcan-Toyo America, Inc.</u> – The Board found that Toyal America, Inc. (Toyal) had violated the various sections of the Environmental Protection Act (Act) (415 ILCS 5/1 <i>et seq.</i> (2008)) and the Board’s air pollution rules alleged in counts I and II of the complaint. The Board ordered Toyal (1) to pay a total civil penalty of \$716,440, consisting of \$316,440 in costs to be recovered for the economic benefits Toyal received through non-compliance, and an additional \$400,000 to aid in enforcement of the Act and to enhance timely, voluntary compliance with volatile organic materials rules, and (2) to cease and desist from further violations. The Board previously accepted a stipulation and partial settlement agreement for counts III, IV, V, VI, and VII of the complainant’s complaint, and imposed a \$31,500 penalty (People v. Toyal America, Inc. f/k/a Alcan-Toyo America, Inc., PCB 00-211 (August 9, 2001)).</p>	<p>4-1 A,L-E, RCRA Johnson dissented</p>
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PCB 07-44	<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
PCB 07-53	<u>People of the State of Illinois v. Moline 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 08-96	<u>United City of Yorkville v. Hamman Farms</u> – No action taken.	A,L,W-E
PCB 09-61	<u>Johnson Oil Company, LLC v. IEPA</u> – The Board granted this Vermilion County facility’s motion for voluntary dismissal of this underground storage tank appeal.	5-0 P-A, Land
PCB 09-66	<u>Elmhurst Memorial Healthcare and Elmhurst Memorial Hospital v. Chevron U.S.A., Inc.</u> – No action taken.	L-E
PCB 09-87 PCB 10-5 (cons.)	<u>Dickerson Petroleum, Inc. v. IEPA</u> <u>Dickerson Petroleum, Inc. v. IEPA</u> – No action taken.	UST Appeal
PCB 09-91	<u>People of the State of Illinois v. Ken Rawson</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a McHenry County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 10-13	<u>Jon Chualovsky v. Commonwealth Edison</u> – No action taken.	Citizens, N-E
PCB 10-36	<u>Susan Malinowski v. Chicago Transit Authority</u> – The Board granted complainant’s motion for voluntary dismissal of this enforcement action.	5-0 N-E, Citizens
PCB 10-61 PCB 11-2	<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> – The Board denied the motions to strike, dismiss and challenge the sufficiency of the intervenor’s complaint. The Board, on its own motion, consolidated PCB 10-61 and PCB 11-2.	5-0 W-E

PCB 10-71	<u>People of the State of Illinois v. 87th & Greenwood, LLC, Innovative Recycling Technologies, Inc., and Land Reclamation Services, Inc.</u> – No action taken.	L-E
PCB 10-74	<u>Mill Creek Water Reclamation District v. IEPA and Grand Prairie Sanitary District</u> – No action taken.	P-A, Water
PCB 10-75	<u>Chicago Coke Co., Inc v. IEPA</u> – The Board granted motions for leave to file reply and to file surreply.	5-0 P-A, Air
PCB 10-100	<u>Rolf Schilling, Pam Schilling and Suzanne Ventura v. Gary D. Hill, Villa Land Trust and Prairie Living West, LLC</u> – No action taken.	L-E
PCB 10-103 PCB 10-104	<u>Stop The Mega-Dump v. County Board of Dekalb County, Illinois and Waste Management, of Illinois Inc. Waste Management of Illinois, Inc. v. DeKalb County Board</u> – No action taken.	L-S-App Third Party
PCB 10-105	<u>People of the State of Illinois v. Kevin Fairfield and Sue Fairfield</u> – In this water enforcement action concerning a Morgan 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 respondents to pay a total civil penalty of \$5,500.00, and to cease and desist from further violations.	5-0 W-E
PCB 10-106	<u>Dave McGhee v. IEPA</u> – No action taken.	A,N-E, Citizens
PCB 10-109	<u>People of the State of Illinois v. Rock River Blending Company</u> – The Board accepted for hearing this land enforcement action involving a site located in Winnebago County.	5-0 L-E
PCB 10-110	<u>KCBX Terminals Company 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 stay of specified conditions in the permit.	5-0 P-A, Air
PCB 11-1	<u>William H. Leesman v. Cimco Recycling, Sterling and Cimco Resources, Inc.</u> – No action taken.	Citizens, N-E

CASES PENDING DECISION

<p>R08-9(A)</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 (Recreational Use Designations)</u> - Proposed Rule, First Notice, Opinion & Order</p>	<p>Water</p>
<p>R10-18</p>	<p><u>In the Matter of: Procedural Rules on Hearings in Identical in Substance Rulemakings</u> - Adopted Rule, Final Order, Opinion & Order</p>	<p>Proc.</p>

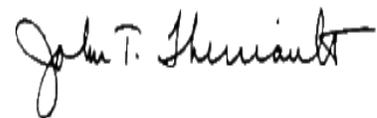
OTHER ITEMS

	<p>The Board granted Chairman’s motion to hold the August 5, 2010 Board Meeting as a videoconference meeting in the Board’s Chicago (Room 11-512) and Springfield (Room 1244N. First Floor) offices.</p>	<p>5-0</p>
	<p>The Board granted Chairman’s motion approving a proclamation commemorating Barbara Mims’ 25th anniversary with the Board</p>	<p>5-0</p>

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Girard adjourned the meeting at 11:35 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on August 5, 2010, by a vote of 5-0.



John T. Therriault, Assistant Clerk
 Illinois Pollution Control Board