

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



April 7, 2011

11:00 a.m.

Chicago

100 W. Randolph Street
Chicago, IL

Room 9-040

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 March 17, 2011 open meeting and the March 24, 2011 closed deliberative session were approved by a vote of 5-0. The minutes of the March 31, 2011 closed deliberative session were approved by a vote of 3-0, Chairman Girard and Member Moore abstained.

RULEMAKINGS

R 11-24	<p><u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions from Group II and Group IV Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm Code 211, 218, and 219</u> – The Board accepted for hearing the Illinois Environmental Protection Agency’s April 4, 2011 proposal to amend the Board’s air pollution control regulations. The Board adopted a first notice opinion and order without commenting on the merits, but denied petitioner’s motion for expedited review.</p>	5-0 Air
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ADJUSTED STANDARDS

None

ADMINISTRATIVE CITATIONS

AC 10-28	<p><u>IEPA v. John and Debra Watson</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket.</p>	5-0
AC 11-21	<p><u>IEPA v. Christopher and Cora Kessinger</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket.</p>	5-0
AC 11-22	<p><u>IEPA v. Kyle E. Pritchett</u> – The Board accepted an administrative citation against this Wabash County respondent.</p>	

ADJUDICATORY CASES

PCB 99-134	<p><u>People of the State of Illinois v. Heritage Coal Company, LLC (f/k/a/ Peabody Coal Company, LLC)</u> – No action taken.</p>	W-E
PCB 04-185	<p><u>Midwest Generation EME, LLC v. IEPA</u> – The Board vacated IEPA’s trade secret determination of Midwest Generation EME, LLC and dismissed the petition for review.</p>	5-0 T-S Air
PCB 04-192	<p><u>People of the State of Illinois v. Smithfield Properties, L.L.C., Wooton Construction, Ltd., and Chicago Sun-Times, Inc.</u> – No action taken.</p>	L,W-E

<p>PCB 04-215 PCB 04-216</p>	<p><u>Commonwealth Edison Company v. IEPA</u> <u>Midwest Generation EME, LLC v. IEPA</u> – The Board vacated IEPA’s trade secret determination of Commonwealth Edison Company (ComEd) and Midwest Generation EME, LLC (Midwest). The Board dismissed ComEd’s and Midwest’s petitions for review.</p>	<p>5-0 T-S Air</p>
<p>PCB 05-117</p>	<p><u>People of the State of Illinois v. City of Cairo</u> – In this land enforcement action concerning an Alexander 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 \$2,000.00, and to cease and desist from further violations.</p>	<p>5-0 L-E</p>
<p>PCB 07-45</p>	<p><u>People of the State of Illinois v. General Waste Services, Inc.</u> – The Board found that General Waste Services, Inc. violated Section 9.1(d) of the Act (415 ILCS 9.1(d) (2008)) and the Code of Federal Regulations (40 CFR §61.145(c)(3), (6)) by removing regulated asbestos containing material (RACM) and failing to properly wet the RACM during removal, and ordered the respondent to pay a total civil penalty of \$10,000.00, and to cease and desist from further violations.</p>	<p>5-0 A-E</p>
<p>PCB 07-63</p>	<p><u>PMA & Associates, Inc. v. IEPA</u> – No action taken.</p>	<p>UST Appeal</p>
<p>PCB 07-99</p>	<p><u>L. W. Paul Supply Co., Inc v. IEPA</u> – No action taken.</p>	<p>UST Appeal</p>
<p>PCB 07-108</p>	<p><u>Reed's Service v. IEPA</u> – No action taken.</p>	<p>UST Appeal</p>
<p>PCB 07-127</p>	<p><u>Pioneer Oil Company v. IEPA</u> – No action taken.</p>	<p>UST Appeal</p>
<p>PCB 07-129</p>	<p><u>Yesley Service Company, Inc. v. IEPA</u> – No action taken.</p>	<p>UST Appeal</p>
<p>PCB 07-137</p>	<p><u>Russell Oil Company, Inc. v. IEPA</u> – No action taken.</p>	<p>UST Appeal</p>
<p>PCB 08-30</p>	<p><u>Caseyville Sport Choice, LLC, an Illinois Limited Liability Company v. Erma I. Seiber, Administratrix of the Estate of James A. Seiber, Deceased, and Erma I. Seiber in her individual capacity, and Fairmount Park, Inc.</u> – No action taken.</p>	<p>L-E, Citizens</p>

PCB 09-24	<u>People of the State of Illinois v. Dennis Lahood, d/b/a Villeneauve Subdivision</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) (2008)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$15,000.00, and to cease and desist from further violations.	5-0 W-E
PCB 09-102	<u>Peter Arendovich v. the Illinois State Toll Highway Authority</u> – No action taken.	N-E, Citizens
PCB 10-13	<u>Jon Chualovsky v. Commonwealth Edison</u> – The Board denied complainant’s motion for reconsideration.	4-0 Zalewski abstained Citizens, N-E
PCB 10-21	<u>People of the State of Illinois v. Seating Concepts, Inc.</u> – In this air enforcement action concerning a Will 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 \$139,000, and to cease and desist from further violations.	5-0 A-E
PCB 10-54	<u>Zervos Three, Inc. v. IEPA</u> – No action taken.	UST Appeal
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> – No action taken.	W-E
PCB 10-70	<u>Wheeling/GWA Auto Shop v. IEPA</u> – No action taken.	UST Appeal
PCB 10-72	<u>People of the State of Illinois v. Byrom Ward, d/b/a Ward Electric, and Timothy James</u> – No action taken.	L-E
PCB 10-73	<u>Metropolitan Pier & Exposition Authority v. IEPA</u> – No action taken.	P-A, Land
PCB 10-75	<u>Chicago Coke Co., Inc. v. IEPA</u> – No action taken.	P-A, Air

PCB 10-76	<u>Coalville Road Enterprises v. IEPA</u> – No action taken.	P-A, Land
PCB 10-84	<u>People of the State of Illinois v. Professional Swine Management, LLC, Hilltop View LLC, Wildcat Farms, LLC, High-Power Pork, LLC, Eagle Point, LLC, Lone Hollow, LLC, Timberline, LLC, Prairie State Gilts, Ltd., North Fork Pork, LLC, Little Timber, LLC, and Twin Valley Pumping, Inc.</u> – In this land enforcement action concerning a Hancock County facility as to North Fork Pork, LLC only, 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 North Fork Pork to pay a total civil penalty of \$4,500.00, and to cease and desist from further violations.	5-0 W-E
PCB 10-100	<u>Rolf Schilling, Pam Schilling and Suzanne Ventura v. Gary D. Hill, Villa Land Trust and Prairie Living West, LLC</u> – The Board granted the complainants’ motion to strike the respondents’ second and third affirmative defenses. The Board granted the respondents’ motion to withdraw affirmative defenses one and four and denied the complainants’ motion to strike the respondents’ first and fourth affirmative defenses as moot. Respondents’ second and third affirmative defenses are stricken without prejudice. The Board granted the respondents leave to amend their second and third affirmative.	5-0 Citizens, L-E
PCB 10-102	<u>People of the State of Illinois v. City of Charleston</u> – In this water enforcement action concerning a Coles 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 \$23,800, and to cease and desist from further violations.	5-0 W-E
PCB 10-110	<u>KCBX Terminals Company v. IEPA</u> – No action taken.	P-A, Air
PCB 11-6	<u>People of the State of Illinois v. American Construction, LLC, Inc. and Real Estate Elmhurst, LLC</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 DuPage County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E

PCB 11-22	<u>Scott Mayer v. Lincoln Prairie Water Company, Korte & Luitjohan Contractors, Inc., and Milano & Grunloh Engineers, LLC</u> – The Board accepted the complaint for hearing, denied respondents’ motions to dismiss the complaint as duplicative or frivolous, and on its own motion strikes that portion of the relief request seeking an award to complainant of his costs and attorney fees.	5-0 L-E, Citizens
PCB 11-33	<u>ExxonMobil Oil Corporation (Jim's Service) 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 Sangamon County facility.	5-0 UST Appeal
PCB 11-43	<u>KCBX Terminals Company v. IEPA</u> – No action taken.	P-A, Air
PCB 11-52	<u>People of the State of Illinois v. Windsor Lake Partnerships, James Durkee and Sandy Sokolick</u> – In this water enforcement action concerning a Winnebago 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 \$3,000, and to cease and desist from further violations.	5-0 W-E
PCB 11-60	<u>American Disposal Services of Illinois, Inc. v. County Board of McLean County, Illinois, Henson Disposal, Inc. and TKNTK, LLC</u> – The Board accepted for hearing this pollution control facility siting appeal involving a McLean County facility.	5-0 L-S-App Third Party
PCB 11-61	<u>Robbie's 66 v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Peoria County facility.	5-0 UST Appeal
PCB 11-62	<u>The Premcor Refining Group, 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 Adams County facility.	5-0 UST Appeal, 90- Day Extension
PCB 11-63	<u>SCF Development, LLC</u> – The Board accepted for hearing this underground storage tank appeal involving a Tazewell County facility.	5-0 UST Appeal

PCB 11-64	<u>People of the State of Illinois v. Northern Illinois University</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a DeKalb County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
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CASES PENDING DECISION

R11-17	<u>In the Matter of: Proposed Site-Specific NOx Rule Amendment Applicable to Saint-Gobain Containers, Inc. at 35 Ill Adm. Code Section 217.152(b)</u> <ul style="list-style-type: none"> • Scheduled for JCAR Review April 12, 2011 <ul style="list-style-type: none"> – Adopted Rule, Final Order, Opinion & Order 	Air
PCB 11-10	<u>Veolia ES Zion Landfill, Inc. v. City Council of the City of Zion, Illinois</u> (Due 4/21/11) <ul style="list-style-type: none"> – Opinion & Order 	L-S-App

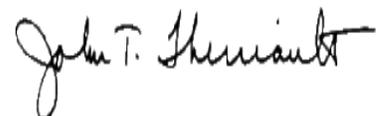
OTHER ITEMS

	The Board granted the Chairman’s Motion to Reschedule the September, 2011 Board Meetings from September 1 and September 15, to September 8 and September 22.	5-0
	The Board granted the Chairman’s Motion to Reschedule the September, 2011 Closed Deliberative Sessions from September 8 and September 22 and September 29, to September 1 and September 15 and September 29.	5-0

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 April 21, 2011, by a vote of 5-0



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board