

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



May 19, 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 May 5, 2011 open meeting and the May 12, 2011 closed deliberative session were approved by a vote of 5-0.

RULEMAKINGS

<p>R 11-8</p>	<p><u>In the Matter of: Regulatory Proposal for NOx Trading Program Sunset Provisions for Non-Electric Generation Units ("Non-EGU.")</u>: Amendments to 35 Ill. Adm. Code Part 217. Subpart U – The Board adopted a first notice opinion and order in this rulemaking proposal to amend the Board’s air pollution control regulations.</p>	<p>5-0 Air</p>
<p>R 11-26</p>	<p><u>In the Matter of: Illinois Environmental Regulatory Group's Emergency Rulemaking, Nitrogen Oxides Emissions: Amendments to 35 Ill. Adm. Code Part 217</u> – The Board denied the motion for emergency rule and on its own motion consolidated this rulemaking with another open docket involving the exact same subject matter, proposed by the Illinois Environmental Protection Agency: R11-24, <u>In the Matter of: Amendments to 35 Ill. Adm. Code 217, Nitrogen Oxides Emissions</u>. The Board noted that the hearings in R11-24 will be completed in June, and that the Board hopes to complete rulemaking this summer or early fall.</p>	<p>5-0 Air</p>

ADJUSTED STANDARDS

NONE

ADMINISTRATIVE CITATIONS

<p>AC 09-55</p>	<p><u>IEPA v. Jason D. & Angela R. Marrs d/b/a Marrs Hauling Landscaping & More</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$554.00 and a civil penalty of \$3,000. This order follows the Board's interim order of March 3, 2011, which found that this respondent had violated Sections 21(p) (1) and (7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (7) (2008)).</p>	<p>5-0</p>
<p>AC 11-23</p>	<p><u>IEPA v. Dennis Weiler</u> – The Board accepted an administrative citation against this Jasper County respondent.</p>	
<p>AC 11-24</p>	<p><u>IEPA v. Dennis Heck and Raymond A. and Deanna Harris</u> – The Board accepted an administrative citation against these Jefferson County respondents.</p>	
<p>AC 11-25</p>	<p><u>IEPA v. Diane Timpe and Jimmy Timpe</u> – The Board accepted an administrative citation against these Macoupin County respondents.</p>	

AC 11-26	<u>IEPA v. Estate of Kenneth D. Berhenke, Sr.</u> – The Board accepted an administrative citation against this Rock Island County respondent.	
AC 11-27	<u>IEPA v. James Harris</u> – The Board accepted an administrative citation against this Knox County respondent.	

ADJUDICATORY CASES

PCB 99-134	<u>People of the State of Illinois v. Heritage Coal Company, LLC (f/k/a/ Peabody Coal Company, LLC)</u> – No action taken.	W-E
PCB 04-185	<u>Midwest Generation EME, LLC v. IEPA</u> – No action taken.	T-S Air
PCB 04-215 PCB 04-216 (Cons.)	<u>Commonwealth Edison Company v. IEPA</u> <u>Midwest Generation EME, LLC v. IEPA</u> – No action taken.	T-S Air
PCB 04-192	<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.	L,W-E
PCB 06-17	<u>Morgan Southern Company v. IEPA</u> – No action taken.	UST Appeal
PCB 07-63	<u>PMA & Associates, Inc. v. IEPA</u> – No action taken.	UST Appeal
PCB 07-99	<u>L. W. Paul Supply Co., Inc v. IEPA</u> – No action taken.	UST Appeal
PCB 07-108	<u>Reed's Service v. IEPA</u> – No action taken.	UST Appeal
PCB 07-119	<u>Mahr's Service & Sales v. IEPA</u> – No action taken.	UST Appeal
PCB 07-120	<u>Ruth Oil Company v. IEPA</u> – No action taken.	UST Appeal
PCB 07-126	<u>Gateway FS, Inc. v. IEPA</u> – No action taken.	UST Appeal
PCB 07-127	<u>Pioneer Oil Company v. IEPA</u> – No action taken.	UST Appeal
PCB 07-129	<u>Yesley Service Company, Inc. v. IEPA</u> – No action taken.	UST Appeal

PCB 07-137	<u>Russell Oil Company, Inc. v. IEPA</u> – No action taken.	UST Appeal
PCB 07-138	<u>Watertower Marina, Inc. v. IEPA</u> – No action taken.	UST Appeal
PCB 08-10	<u>Dunn's University BP (Corrective Action Plan dated March 5, 2007) v. IEPA</u> – No action taken.	UST Appeal
PCB 08-43	<u>Moto, Inc. v. IEPA</u> – No action taken.	UST Appeal
PCB 09-50	<u>Schrof Service Center v. IEPA</u> – No action taken.	UST Appeal
PCB 09-102	<u>Peter Arendovich v. the Illinois State Toll Highway Authority</u> – No action taken.	N-E, Citizens
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 10-84	<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> – No action taken.	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> – No action taken.	Citizens, L-E

PCB 10-103	<u>Stop The Mega-Dump v. County Board of DeKalb County, Illinois and Waste Management, of Illinois Inc.</u> – The Board denied petitioner’s motion for reconsideration of the Board’s March 17, 2011 opinion and order which affirmed the County Board of DeKalb County’s site location suitability approval for expansion of an existing landfill.	5-0 P-C-F-S-R
PCB 10-109	<u>People of the State of Illinois v. Rock River Blending Company</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Winnebago County facility, the Board ordered publication of the required newspaper notice.	5-0 L-E
PCB 10-110 PCB 11-43 (cons.)	<u>KCBX Terminals Company v. IEPA</u> – The Board granted in part and denied in part petitioner’s motion to supplement the record. The Board ruled on respondent’s interlocutory appeal, but affirmed the hearing officer’s April 18, 2011 discovery ruling.	5-0 P-A, Air
PCB 11-6	<u>People of the State of Illinois v. American Construction, LLC, Inc. and Real Estate Elmhurst, LLC</u> – In this water enforcement action concerning a DuPage 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 \$1,000, and to cease and desist from further violations.	5-0 W-E
PCB 11-7	<u>Van Zelst Landscape Compost Facility v. IEPA</u> – No action taken.	P-A, Land
PCB 11-60	<u>American Disposal Services of Illinois, Inc. v. County Board of McLean County, Illinois, Henson Disposal, Inc. and TKNTK, LLC</u> – No action taken.	L-SA, 3d P
PCB 11-78	<u>Four Beck Dairy - Bartelso v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Four Beck Dairy located in Clinton County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).	5-0 T-C, W

PCB 11-79	<u>People of the State of Illinois v. Inverse Investment L.L.C.</u> – The Board accepted for hearing this water enforcement action involving a site located in McHenry County.	5-0 W-E
PCB 11-80	<u>Panther Creek Ranch, LLC - Congerville v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Panther Creek Ranch, LLC located in Woodford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).	5-0 T-C, W
PCB 11-81	<u>Geneseo Municipal Utilities v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Henry County facility.	5-0 P-A, Air

CASES PENDING DECISION

<u>R08-9(A)</u>	<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> – Proposed Rule, Second Notice. Opinion & Order	Water
<u>R11-2</u> <u>R11-16</u>	<u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2010 through June 30, 2010)</u> <u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2010 through December 31, 2010)</u> – Proposed Rule, Consolidation & Deadline Extension Proposal for Public Comment, Opinion & Order	Land

OTHER ITEMS

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Girard adjourned the meeting at 11:22 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on May 19, 2011, by a vote of

John T. Therriault,
Assistant Clerk
Illinois Pollution Control Board