

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



July 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 June 2, 2011 open meeting and the June 23 and 30 closed deliberative sessions were approved by a vote of 5-0.

RULEMAKINGS

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</u> – The Board adopted a first notice opinion and order in this rulemaking proposal to amend the Board’s water pollution control regulations.	5-0 Water
R 11-24 R 11-26 (cons.)	<u>In the Matter of: Nitrogen Oxides Emissions, Amendments to 35 Ill. Adm. Code 217</u> <u>In the Matter of: Illinois Environmental Regulatory Group's Emergency Rulemaking, Nitrogen Oxides Emissions: Amendments to 35 Ill. Adm. Code Part 217</u> – No action taken.	Air
R 12-1	<u>UST Update, USEPA Amendments (January 1,2011 through June 30, 2011)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Land
R 12-2	<u>Wastewater Pretreatment Update, USEPA Amendments (January 1,2011 through June 30, 2011)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Water
R 12-3	<u>Definition of VOM Update, USEPA Amendments (January 1,2011 through June 30, 2011)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Air
R 12-4	<u>SDWA Update, USEPA Amendments (January 1,2011 through June 30, 2011)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Water
R 12-5	<u>UIC Update, USEPA Amendments (January 1,2011 through June 30, 2011)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Land

R 12-6	<u>RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1,2011 through June 30, 2011)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Land
R 12-7	<u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1,2011 through June 30, 2011)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period.	Land

ADJUSTED STANDARDS

NONE

ADMINISTRATIVE CITATIONS

AC 10-25	<u>IEPA v. Kenneth Verbout</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Bureau County facility, the Board found that respondent violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2010)) 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 violations of Sections 21(p)(3), 21(p)(7), and 55(k)(1) of the Act (415 ILCS 5/21(p)(3), 21(p)(7), 55(k)(1) (2010)) of the Act.	5-0
AC 11-23	<u>IEPA v. Dennis Weiler</u> – The Board found that this Jasper County respondent violated Sections 21(p)(1), 21(p)(7), and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(7), 55(k)(1) (2010)), and ordered respondent to pay a civil penalty of \$4,500.	5-0
AC 11-24	<u>IEPA v. Dennis Heck and Raymond A. and Deanna Harris</u> – The Board granted complainant’s motion to voluntarily dismiss the administrative citation against Raymond A. Harris.	5-0

AC 11-25	<u>IEPA v. Diane Timpe and Jimmy Timpe</u> – The Board found that these Macoupin County respondents violated Sections 21(p)(1) and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 55(k)(1) (2010)), and ordered respondents to pay a civil penalty of \$3,000.	5-0
AC 11-26	<u>IEPA v. Estate of Kenneth D. Berhenke, Sr.</u> – The Board accepted respondent’s amended petition for review, but directed respondent to file a second amended petition to cure deficiencies.	5-0
AC 11-27	<u>IEPA v. James Harris</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Knox County facility.	5-0
AC 11-28	<u>IEPA v. Thad and Linda Shafer</u> – The Board accepted respondents’ petition for review, but directed respondents to file an amended petition to cure deficiencies.	5-0
AC 11-32	<u>IEPA v. Brandon DeHart and Robert Evans</u> – The Board accepted an administrative citation against these Cook County respondents.	

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> – The Board granted respondent’s motion for clarification and corresponding modification of the Board’s April 7, 2011 order.	5-0 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> – The Board granted respondent’s motion for clarification and corresponding modification of the Board’s April 7, 2011 order.	4-0 Zalewski abstained 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 09-66	<u>Elmhurst Memorial Healthcare and Elmhurst Memorial Hospital v. Chevron U.S.A., Inc. and Texaco, Inc.</u> – The Board granted complainants’ motion to strike respondents’ affirmative defenses IV, V, VI and VIII. The Board denied complainants’ motion to strike respondents’ affirmative defenses II, III and VII.	5-0 L-E
PCB 09-102	<u>Peter Arendovich v. the Illinois State Toll Highway Authority</u> – No action taken.	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> – No action taken.	W-E
PCB 10-70	<u>Wheeling/GWA Auto Shop v. IEPA</u> – In an interim opinion and order, the Board granted petitioner’s motion for summary judgment and denied respondent’s motion for summary judgment. The Board reversed the respondent’s February 2, 2010 reduction of \$78,915.82 in petitioner’s corrective action plan budget and remanded the matter to the respondent to consider the merits of that portion of petitioner’s budget. Wheeling is directed to file by August 8, 2011, a statement of its legal fees in accordance with this interim opinion. The Agency may file a response within 14 days after being served with Wheeling’s statement.	5-0 UST Appeal
PCB 10-72	<u>People of the State of Illinois v. Byrom Ward, d/b/a Ward Electric, and Timothy James</u> – In an interim opinion and order, the, the Board granted complainant’s motion for summary judgment and found that respondent’s violated Sections 21(a), 21(e), and 21(p)(1) of the Act (415 ILCS 5/21(a), 21(e), 21(p)(1) (2010)).	5-0 L-E
PCB 10-73	<u>Metropolitan Pier & Exposition Authority v. IEPA</u> – The Board granted petitioner’s motion for summary judgment and denied respondent’s motion for summary judgment. The Board reversed the respondent’s October 30, 2008 determination, and directed the respondent to reimburse petitioner \$392,527.74 from the Underground Storage Tank Fund.	5-0 UST Appeal

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 10-108	<u>People of the State of Illinois v. William Charles Real Estate Investment, L.L.C.</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 Winnebago County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 10-109	<u>People of the State of Illinois v. Rock River Blending Company</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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$30,000.00, and to cease and desist from further violations.	5-0 L-E
PCB 11-7	<u>Van Zelst Landscape Compost Facility v. IEPA</u> – No action taken.	P-A, Land
PCB 11-8	<u>City of Joliet v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal.	5-0 P-A, Water
PCB 11-55	<u>People of the State of Illinois v. American Excavating & Septic Services, Inc. and CBS Leasing, L.L.C.</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 Jo Daviess County facility, the Board ordered publication of the required newspaper notice.	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> – No action taken.	L-SA, 3d P
PCB 11-62	<u>The Premcor Refining Group, Inc. 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 Adams County facility.	5-0 UST Appeal

PCB 11-63	<u>Beverly Powers f/k/a Dick's Super Service v. IEPA</u> – The Board granted Beverly Powers’ motion to substitute as named petitioner.	5-0 UST Appeal
PCB 11-85	<u>Holland Energy, LLC v. IEPA</u> – The Board granted petitioner’s motion to clarify the Board’s June 16, 2011 order granting the stay of contested conditions.	5-0 P-A, Water
PCB 11-91	<u>Ziggy Development, LLC v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal.	5-0 UST Appeal
PCB 11-93	<u>Assay Farms v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Assay Farms located in Henry County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 11-94	<u>Perfume Acres, Inc. v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Perfume Acres, Inc located in Iroquois County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 11-95	<u>Mircor Condos, LLC v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mircor Condos, LLC located in Lee County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 11-96	<u>Ringger Farms, Inc. - Gridley v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Ringger Farms, Inc. located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W

PCB 11-97	<u>Jeff and Mitzi Sharer v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Jeff and Mitzi Sharer located in Henderson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 11-98	<u>Perfume Acres v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Perfume Acres located in Iroquois County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 11-99	<u>JMTR, LLC - Sterling v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of JMTR, LLC located in Whiteside County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 11-100	<u>Keith Naftzger v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Keith Naftzger located in Whiteside County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 11-101	<u>George Mattern v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of George Mattern located in Putnam County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 11-102	<u>People of the State of Illinois v. Super Mix, Inc.</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 DuPage County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E

PCB 11-103	<u>People of the State of Illinois v. Markham Transfer & Recycling, LLC</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 land enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	5-0 L-E
PCB 11-104	<u>Mac's Convenience Stores, LLC 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 Christian County facility.	5-0 UST Appeal, 90- Day Extension
PCB 11-105	<u>People of the State of Illinois v. Kolb-Lena Bresse Bleu, Inc., Kolb-Lena, Inc. and Zausner Foods Corp.</u> – The Board accepted for hearing this air enforcement action involving a site located in Stephenson County.	5-0 A-E
PCB 11-106	<u>JKL Pork LLC - Eureka v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of JKL Pork 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 (2010)).	5-0 T-C, W
PCB 11-107	<u>Brooks Farms v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Brooks Farms located in Whiteside County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	5-0 T-C, W
PCB 12-1	<u>People of the State of Illinois v. Hoopeston Foods, Inc.,</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 water enforcement action involving a Vermilion County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E

CASES PENDING DECISION

R08-9(A)	<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> <ul style="list-style-type: none"> • Scheduled for Review at July 12, 2011 JCAR Meeting <ul style="list-style-type: none"> – Adopted Rule, Final Order, Opinion & Order 	Water
R11-23	<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> <ul style="list-style-type: none"> • Scheduled for Review at July 12, 2011 JCAR Meeting <ul style="list-style-type: none"> – Adopted Rule, Final Order, Opinion & Order 	Air

OTHER ITEMS

	The Board granted the Chairman's Motion to Reschedule the 11:00 am, July 21, 2011 Board Meeting as a Videoconference Meeting Between the Board's Chicago Office (Room 11-512) and the Board's Springfield Office (Room 1244N, First Floor).	5-0
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ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Girard adjourned the meeting at 11:40 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on July 21, 2011, by a vote of

John T. Therriault,
Assistant Clerk
Illinois Pollution Control Board