

# ILLINOIS POLLUTION CONTROL BOARD

## MEETING MINUTES

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**August 4, 2011**

**11:00 a.m.**

**Chicago**

100 W. Randolph Street

Chicago, IL

**9-040**

### **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 July 21, 2011 open meeting and the July 28, 2011 closed deliberative session were approved by a vote of 5-0.

## RULEMAKINGS

<p><b>R 08-9(C)</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 found that delaying the hearings in Subdocket D until the Board goes to first notice in Subdocket C is appropriate. Also, as the Board will proceed to first notice in Subdocket C before hearings begins in Subdocket D, the Board will not create an additional subdocket. The Board granted Midwest Generation’s motion, denied Corn Products and ExxonMobil’s motions in part, and denied the motion of Citgo Petroleum Corporation and PDV Midwest, LLC.</p>	<p>5-0 Water</p>
<p><b>R 11-8</b></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 second notice opinion and order in this rulemaking to amend the Board’s air pollution control regulations.</p>	<p>5-0 Air</p>
<p><b>R 12-1</b></p>	<p><u>UST Update, USEPA Amendments (January 1, 2011 through June 30, 2011)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its municipal solid waste landfill regulations during the update period of January 1 through June 30, 2011.</p>	<p>5-0 Land</p>
<p><b>R 12-2</b></p>	<p><u>Wastewater Pretreatment Update, USEPA Amendments (January 1, 2011 through June 30, 2011)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its municipal solid waste landfill regulations during the update period of January 1 through June 30, 2011.</p>	<p>5-0 Water</p>
<p><b>R 12-3</b></p>	<p><u>Definition of VOM Update, USEPA Amendments (January 1, 2011 through June 30, 2011)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its municipal solid waste landfill regulations during the update period of January 1 through June 30, 2011.</p>	<p>5-0 Air</p>

<b>R 12-5</b>	<u>UIC Update, USEPA Amendments (January 1, 2011 through June 30, 2011)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its underground injection control regulations during the update period of January 1 through June 30, 2011.	5-0 Land
<b>R 12-6</b>	<u>RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2011 through June 30, 2011)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its municipal solid waste landfill regulations during the update period of January 1 through June 30, 2011.	5-0 Land
<b>R 12-8</b>	<u>In the Matter of: Standards and Limitations for Organic Material Emissions for Area Sources; Amendments to 35 Ill. Adm. Code Part 223</u> – The Board accepted for hearing petitioner’s July 13, 2011 proposal to amend the Board’s air pollution control regulations for certain commercial sources. The Board granted motion petitioner’s waiver of copy submission requirements.	5-0 Air
<b>R 12-9</b>	<u>In the Matter of: Proposed Amendments to Clean Construction or Demolition Debris Fill Operations Under PA 96-1416 &amp; 97-0137: 35 Ill. Adm. Code Part 1100</u> – The Board accepted for hearing petitioner’s July 29, 2011 proposal to amend the Board’s land pollution control regulations. The Board granted <b>the</b> motion to waive the filing requirements.	4-0, Member Zalewski abstained Land

### ADJUSTED STANDARDS

NONE

### ADMINISTRATIVE CITATIONS

<b>AC 11-24</b>	<u>IEPA v. Dennis Heck and Deanna Harris</u> – Since no amended petition was filed as ordered in the Board’s June 16, 2011 order, the previously filed petitions for review were dismissed. The Board found that these Jefferson County respondents violated Section 21(p)(1) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2010)), and ordered respondents to pay a civil penalty of \$3,000.	5-0
<b>AC 11-32</b>	<u>IEPA v. Brandon DeHart and Robert Evans</u> – The Board accepted Brandon DeHart’s petition for review, but directed respondent to file an amended petition to cure deficiencies.	5-0

<b>AC 12-1</b>	<u>IEPA v. Gaylon L. and Lois J. Harrell</u> – The Board accepted an administrative citation against these Logan County respondents.	
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### ADJUDICATORY CASES

<b>PCB 99-134</b>	<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
<b>PCB 04-192</b>	<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
<b>PCB 07-97</b>	<u>Kyle Nash v. Luis Jimenez</u> – The Board accepted the parties’ joint stipulation to dismiss and closed the docket.	5-0 N-E, Citizens
<b>PCB 08-30</b>	<u>E.R. 1, LLC, assignee of 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.	L-E, Citizens
<b>PCB 08-89</b>	<u>People of the State of Illinois v. Gelco Management &amp; Developers LLC</u> , – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Franklin County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
<b>PCB 10-61</b>  <b>PCB 11-2</b>	<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
<b>PCB 10-66</b>	<u>GHB 630, LLC v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal.	5-0 UST Appeal

<b>PCB 10-84</b>	<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
<b>PCB 10-100</b>	<u>Rolf Schilling, Pam Schilling and Suzanne Ventura v. Gary D. Hill, Villa Land Trust and Prairie Living West, LLC</u> – The Board granted Horve Contractors, Inc.’s motion to dismiss the third-party complaint, but granted leave to file an amended third-party complaint.	5-0 Citizens, L-E
<b>PCB 10-107</b>	<u>People of the State of Illinois v. Rockford Sand and Gravel, Inc., a division of Rockford Blacktop</u> <u>People of the State of Illinois v. Rockford Sand and Gravel, Inc., a division of Rockford Blacktop</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 \$8,000.00, and to cease and desist from further violations.	5-0 W-E
<b>PCB 11-7</b>	<u>Van Zelst Landscape Compost Facility v. IEPA</u> – The Board granted petitioner’s motion for summary judgment and denied the Illinois Environmental Protection Agency’s (Agency) motion for summary judgment. The Board directed the Agency to grant petitioner a permit to develop and operate a landscape waste compost facility at 39400 North Highway 41, City of Wadsworth, Lake County.	5-0 P-A, Land
<b>PCB 11-60</b>	<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
<b>PCB 11-68</b>	<u>People of the State of Illinois v. Tradition Investments, LLC</u> – No action taken.	W-E
<b>PCB 12-15</b>	<u>Gary Szczeblewski v. State Fire Marshall, Divison of Petorleum &amp; Chamental Safety</u> – No action taken.	UST Appeal
<b>PCB 12-16</b>	<u>Mark Lilly v. City of Rock Falls, IL</u> – No action taken.	A-E, Citizens

<b>PCB 12-17</b>	<u>Shell Oil Products U.S. 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 Madison County facility.	5-0 UST Appeal 90-Day Extension
<b>PCB 12-18</b>	<u>The Premcor Refinihg Broup, 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 Macon County facility.	5-0 UST Appeal 90-Day Extension
<b>PCB 12-19</b>	<u>Speedway, 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 Lake County facility.	5-0 UST Appeal 90-Day Extension
<b>PCB 12-20</b>	<u>Clean Construction &amp; Recycling, LLC and G &amp; E Eight Series, LLC v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Winnebago County facility.	5-0 P-A, Air, 90-Day Extension
<b>PCB 12-21</b>	<u>People of the State of Illinois v. Altivity Packaging, LLC, Intra-Plant Maintenance Corporation, Ironhustler Excavating, Inc. and Ron Bright, d/b/a Quarter Construction</u> – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County.	5-0 L-E
<b>PCB 12-22</b>	<u>Speedway, LLC v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a underground storage tank appeal on behalf of this Cook County facility.	5-0 UST Appeal 90-Day Extension
<b>PCB 12-23</b>	<u>Beneficial Reuse Management, LLC and Southern Illinois Power Cooperative v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Williamson County facility, but reserved ruling on the motion for stay.	5-0 P-A, Water

### **CASES PENDING DECISION**

<b>R08-9(A)</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> <ul style="list-style-type: none"> <li>• Scheduled for Review at August 16, 2011 JCAR Meeting <ul style="list-style-type: none"> <li>– Adopted Rule, Final Order, Opinion &amp; Order</li> </ul> </li> </ul>	Water
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<b>R11-2</b> And <b>R11-16</b> (cons.)	<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> – Adopted Rule, Final Order, Opinion & Order	Land
<b>R11-20</b>	<u>In the Matter of: Amendments to 35 Ill. Adm. Code Part 229: Hospital/Medical/Infectious Waste Incinerators</u> – Proposed Rule, Second Notice. Opinion & Order	Air
<b>R11-24</b> And <b>R11-26</b> (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> • Scheduled for Review at August 16, 2011 JCAR Meeting Adopted Rule, Final Order, Opinion & Order	Air
<b>PCB 07-13</b>	<u>People of the State of Illinois v. Ray F. Landers, individually, and Equipping the Saints Ministry International, Inc.</u> – Final Order, Opinion & Order	A-E

### **OTHER ITEMS**

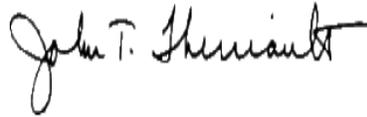
	The Board granted the Chairman's Motion under Section 2-06(c) of the Open Meeting Act (5 ILCS 120/2.06(c)) to continue to preserve only written minutes of closed Board deliberative sessions occurring July 1, 2009, through December 31, 2009, and to approve destruction of verbatim tape recordings of meetings held: July 9, 16 and 30, August 13 and 27, September 10 and 24, October 8, 22 and 9, November 12, and December 10 and 31, 2009	5-0
	The Board granted the Chairman's Motion under Section 2.06(d) of the Open Meetings Act (5 ILCS 120/2.06(d)) to continue to keep confidential minutes of Board closed deliberative sessions occurring between January 1, 2011 through June 30, 2011	5-0

## **ADJOURNMENT**

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Moved and seconded, by a vote of 5-0, Chairman Girard adjourned the meeting at 11:28 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on August 18, 2011, by a vote of 5-0



John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board