

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



September 22, 2011

11:00 a.m.

Chicago

100 W. Randolph Street

Chicago, IL

11-512

ANNOUNCEMENTS

Chairman Girard welcomed members of the public and staff. Chairman Girard welcomed Member Jennifer A. Burke to the Board.

ROLL CALL

The Assistant Clerk of the Board called the roll. Five Board Members answered present.

APPROVAL OF MINUTES

The minutes of the September 8, 2011 open meeting were approved by a vote of 4-0. Member Burke abstained. The minutes of the September 15, 2011 closed deliberative session were approved by a vote of 5-0.

RULEMAKINGS

R 09-19	<u>In the Matter of Air Quality Standards Clean-up: Amendments to 35 Ill. Adm. Code Part 243</u> – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s air pollution control regulations.	5-0 Air
R 11-8	<u>In the Matter of: 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 final opinion and order in this rulemaking proposal which amends the Board’s air pollution control regulations.	5-0 Air
R 11-20	<u>In the Matter of: Amendments to 35 Ill. Adm. Code Part 229: Hospital/Medical/Infectious Waste Incinerators</u> – The Board adopted a final opinion and order in this rulemaking proposal which amends the Board’s air pollution control regulations.	5-0 Air
R 11-22	<u>In the Matter of: Amendments Under P.A. 96-908 to Regulations of Underground Storage Tanks (UST) and Petroleum Leaking UST: 35 Ill. Adm. Code 731, 732, and 734</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s land pollution control regulations.	5-0 Land
R 11-23(A)	<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 adopted a second notice opinion and order in this rulemaking to amend the Board’s air pollution control regulations.	5-0 Air

ADJUSTED STANDARDS

AS 12-1	<u>In the Matter of: Petition of Cabot Corporation for an Adjusted Standard from 35 Ill. Adm. Code Part 738, Subpart B</u> – No action taken.	Land
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ADMINISTRATIVE CITATIONS

AC 11-24	<u>IEPA v. Dennis Heck and Raymond A. and Deanna Harris</u> – No action taken.	
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AC 11-28	<u>IEPA v. Thad and Linda Shafer</u> – The Board granted complainant’s motion to voluntarily dismiss the administrative citation against Linda Shafer.	5-0
AC 11-32	<u>IEPA v. Brandon DeHart and Robert Evans</u> – Since no amended petition on behalf of Brandon DeHart was filed as ordered in the Board’s August 4, 2011 order, the previously filed petition for review was dismissed; Robert Evans filed to file a petition. The Board found that these Pike County respondents violated Section 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (3), and (7) (2010)), and ordered respondents to pay a civil penalty of \$4,500.	5-0
AC 12-2	<u>IEPA v. David and Vivian Wright</u> – The Board accepted an administrative citation against these Fayette 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 01-122	<u>McHenry Storage v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal.	5-0 UST Appeal
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 08-30	<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
PCB 08-89	<u>People of the State of Illinois v. Gelco Management & Developers LLC,</u> – In this air enforcement action concerning a Franklin 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 \$45,000.00, and to cease and desist from further violations.	5-0 A-E

PCB 10-23	<u>United States Steel Corporation v. IEPA, American Bottom Conservancy as Intervenor</u> – No action taken.	P-A, Air
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 a July 7, 2011 interim opinion and order, the Board granted petitioner’s motion for summary judgment and denied that of the Illinois Environmental Protection Agency’s (Agency). The Board reversed the Agency’s February 2, 2010 reduction of \$78,915.86 in petitioner’s corrective action plan budget and remanded the matter to the Agency to consider the merits of that portion of petitioner’s budget. In its September 22, 2011 final order, the Board directed the Agency to reimburse petitioner from the UST Fund for legal fees and costs in the amount of \$17,030.46.	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 11-25	<u>Estate of Gerald D. Slightom v. IEPA</u> – No action taken.	UST Appeal
PCB 11-26	<u>People of the State of Illinois v. Lowell Null, d/b/a MAB Pallets</u> – No action taken.	L-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 11-65	<u>Chevron Environmental Management Company (10/27/09 to 9/3/10) v. IEPA</u> – No action taken.	UST Appeal
PCB 11-66	<u>Chevron Environmental Management Company (8/1/2008 to 9/27/2009) v. IEPA</u> – No action taken.	UST Appeal
PCB 11-68	<u>People of the State of Illinois v. Tradition Investments, LLC</u> – No action taken.	W-E

PCB 12-16	<u>Mark Lilly v. City of Rock Falls, IL</u> – No action taken.	A-E, Citizens
PCB 12-24	<u>Chronister Oil Co. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal.	5-0 UST Appeal
PCB 12-39	<u>WRB Refining, LLC, Gasoline SZorb Unit v. IEPA</u> – No action taken.	T-C, A
PCB 12-40	<u>WRB Refining, LLC, Ultralow Sulfur Diesel v. IEPA</u> – No action taken.	T-C, A
PCB 12-44	<u>Anielle Lipe and Nykole Gillette v. Village of Richton Park</u> – No action taken.	A-E, Citizens
PCB 12-47	<u>JMTR, LLC-Erie v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of JMTR, LLC-Erie 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 12-48	<u>People of the State of Illinois v. Phoenix Corporation of the Quad Cities</u> – The Board accepted for hearing this water enforcement action involving a site located in Carroll County.	5-0 W-E
PCB 12-49	<u>United States Steel Corporation v. IEPA</u> –The Board accepted this petition for variance, pursuant to Section 38(b) of the Act (415 ILCS 5/38(b) (2010)). The Board also confirmed that U.S. Steel’s filing of the variance petition within 20 days of the effective date of the R11-24 Nox rules stayed operation of the January 1, 2015 deadline for compliance of the contested conditions.	5-0 A-V
PCB 12-50	<u>Commonwealth Edison Co. v. Frederick K. Slayton, Ann Vole Slayton, and Cioni Excavating, Inc.</u> – No action taken.	L-E, Citizens

CASES PENDING DECISION

R11-14	<u>UIC Update, USEPA Amendments (July 1, 2010 through December 31, 2010)</u> - Proposed Rule, Proposal for Public Comment, Opinion & Order	Land
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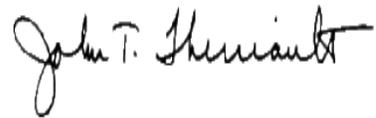
OTHER ITEMS

None

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Girard adjourned the meeting at 11:19 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on October 6, 2011, by a vote of 5-0



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board