

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



July 25, 2013

11:00 a.m.

Chicago
100 W. Randolph Street
Chicago, IL
Room 9-040

ANNOUNCEMENTS

Member Zalewski welcomed members of the public and staff. Member Zalewski announced that Chairman Thomas Holbrook had resigned from the Board as of July 1, 2013 after his 18 month tenure as Chairman.

ROLL CALL

Member Zalewski conducted the meeting, with consensus of all Members, in the absence of a Chairman designated by the Governor. Don Brown, Paralegal Assistant called the roll. All four Board Members answered present.

APPROVAL OF MINUTES

The minutes of July 11, 2013 open meeting were approved by a vote of 4-0. The minutes of the July 18, 2013 closed deliberative sessions under 5 ILCS 120/2(c)(4) were approved by a vote of 4-0. The minutes of the July 24, 2013 closed deliberative session under 5 ILCS 120/2(c)(1) were approved by a vote of 4-0.

RULEMAKINGS

R13-11	<u>National Ambient Air Quality Standards, USEPA Regulations (July 1, 2012 through December 31, 2012)</u> – The Board adopted a final opinion and order in this rulemaking to amend the Board’s air pollution control regulations.	4-0 Air
R13-19	<u>In the Matter of: Site-Specific Rule for the Closure of Ameren Energy Resources Ash Ponds: Proposed New 35 Ill. Adm. Code 840, Subpart B</u> – The Board granted petitioner’s motion to stay this rulemaking for one year.	4-0 Land.
R14-4	<u>UST Update, USEPA Amendments (January 1, 2013 through June 30, 2013)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its underground storage tank regulations during the update period of January 1, 2013 through June 30, 2013.	4-0 Land
R14-5	<u>Wastewater Pretreatment Update, USEPA Amendments (January 1, 2013 through June 30, 2013)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its wastewater pretreatment regulations during the update period of January 1, 2013 through June 30, 2013.	4-0 Water

ADJUSTED STANDARDS

AS 09-4	<u>In the Matter of: Petition of Royal Fiberglass Pools, Inc. for an Adjusted Standard from 35 IAC 215.301</u> – No action taken.	Air
AS 13-4	<u>In the Matter of: Petition of Brickyard Disposal & Recycling, Inc. Pursuant to 35 Ill. Adm. Code 814.402(b)(3)</u> – No action taken.	Land
AS 13-5	<u>In the Matter of: Petition of Caterpillar, Inc. for an Adjusted Standard From 35 Ill. Admin. Code 620.410(a) and 817.106(a)</u> – No action taken.	Water

ADMINISTRATIVE CITATIONS

<p>AC 12-52</p>	<p><u>IEPA v. J. & R Tire Service, Inc.</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Hancock County facility, the Board found that respondent had violated Section 55(k) of the Environmental Protection Act (415 ILCS 5/55 (k)(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.</p>	<p>4-0</p>
<p>AC 13-10</p>	<p><u>IEPA v. Hughes Tire & Battery Company (IEPA File No. 207-12-AC)</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Rock Island County facility, the Board found that respondent had violated Section 55(k) of the Environmental Protection Act (415 ILCS 5/55 (k)(1) (2010)). Because there is one violation of Section 55(k)(1) and this violation is a subsequent offense, respondent was ordered to pay a civil penalty of \$3,000. The Board also granted the parties’ joint motion to dismiss respondent’s petition for review.</p>	<p>4-0</p>
<p>AC 13-11</p>	<p><u>IEPA v. Hughes Tire & Battery Company (IEPA File No. 206-12-AC)</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Rock Island County facility, the Board found that respondent had violated Section 55(k) of the Environmental Protection Act (415 ILCS 5/55 (k)(1) (2010)). Because there is one violation of Section 55(k)(1) and this violation is a subsequent offense, respondent was ordered to pay a civil penalty of \$3,000. The Board also granted the parties’ joint motion to dismiss respondent’s petition for review.</p>	<p>4-0</p>
<p>AC 13-31</p>	<p><u>County of Jackson v. Christopher Will</u> – The Board found that this Jackson County respondent violated Sections 21(p)(1), (p)(2), (p)(3) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(2), (p)(3), (p)(7) (2010)), and ordered respondent to pay a civil penalty of \$6,000.</p>	<p>4-0</p>

AC 13-39	<u>County of Jackson v. Elmer Rowe and Greg Rowe</u> – The Board dismissed respondents’ petition for review for their failure to timely file proof of service as directed. The Board found that these Jackson County respondents violated Sections 21(p)(1), (p)(2), (p)(3) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(2), (p)(3), (p)(7) (2010)), and ordered respondents to pay a civil penalty of \$6,000.	4-0
AC 13-53	<u>IEPA v. Robert Becerra d/b/a 911 Auto Repair</u> – The Board found that this Boone County respondent Section 55(k) of the Environmental Protection Act (415 ILCS 5/55 (k)(1) (2010)), and ordered respondent to pay a civil penalty of \$1,500.	4-0
AC 14-7	<u>IEPA v. John Croslow d/b/a Croslow's Auto Repair</u> – The Board accepted an administrative citation against this Lawrence County respondent.	

ADJUDICATORY CASES

PCB 06-189 PCB 06-190	<u>L. Keller Oil Properties / Farina (Incident No. 20060153) v. IEPA</u> <u>L. Keller Oil Properties / Farina (Incident No. 20051539) v. IEPA</u> – The Board denied petitioner’s motion requesting attorney fees and authorization of settlement.	4-0 UST Appeal
PCB 08-30	<u>E.R. 1, LLC, assignee of Caseyville Sport Choice, LLC v. James A. Seiber, Jr., Executor of the Estate of Erma I. Seiber and James A. Seiber, Deceased, and Fairmount Park, Inc.</u> – No action taken.	L-E, Citizens
PCB 10-48	<u>Broadus Oil Company - Streator v. IEPA</u> – The Board affirmed the Illinois Environmental Protection Agency’s December 8, 2009 determination denying petitioner’s corrective action plan.	4-0 UST Appeal
PCB 10-61 PCB 11-2 (cons.)	<u>People of the State of Illinois v. Freeman United Coal Mining Company, LLC and Springfield Coal Company, LLC</u> <u>Environmental Law and Policy Center v Freeman United Coal Mining Company, LLC and Springfield Coal Company, LLC</u> – No action taken.	W-E
PCB 10-75	<u>Chicago Coke Co., Inc. v. IEPA; Natural Resource Defense Council and Sierra Club as Intervenors</u> – The Board denied petitioner’s motion to modify the Board’s May 2, 2013 order and grant attorney’s fees under the Administrative Procedure Act.	4-0 P-A, Air

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.	L-E
PCB 12-21	<u>People of the State of Illinois v. Intra-Plant Maintenance Corporation, Ironhustler Excavating, Inc., and Ron Bright, d/b/a Quarter Construction</u> – The Board granted complainant’s motions for summary judgment against respondents Ron Bright, Intra-Plant Maintenance Corp., and Ironhustler Excavating, Inc. The Board found that respondents violated Sections 21(a) and 21(e) of the Environmental Protection Act (415 ILCS 5/21(a), (e) (2010)) of the Environmental Protection Act (Act). The Board ordered respondents to cease and desist from violating the Act and associated regulations and ordered each respondent to pay a civil penalty in the amount of \$10,000, for a total civil penalty of \$30,000.	4-0 L-E
PCB 12-94 (See also PCB 14-4)	<u>CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA</u> – The Board entered a procedural order presenting an alternative path for resolution of the issues presented in both PCB 12-94 and PCB 14-4. The parties are requested to comment on the option presented. The Board reserved ruling on the pending motion to vacate, accepting the newly-filed variance petition docketed as PCB 14-4, and the motion to incorporate prior records.	4-0 W-V
PCB 12-101	<u>Phillips 66 Company (f/k/a ConocoPhillips Company) v. IEPA</u> – No action taken.	W-PA, NPDES
PCB 13-15	<u>Sierra Club, Environmental Law and Policy Center, Prairie Rivers Network, and Citizens Against Ruining the Environment v. Midwest Generation</u> – No action taken.	W-E, Citizens
PCB 13-17	<u>Natural Resources Defense Council, Prairie Rivers Network, and Sierra Club v. Illinois Environmental Protection Agency and Dynegy Midwest Generation, Inc.</u> – No action taken.	W-PA, NPDES, 3d P
PCB 13-19	<u>People of the State of Illinois v. Sheridan-Joliet Land Development, LLC, and Sheridan Sand & Gravel Co. (4201 Road Site)</u> – No action taken.	L-E

PCB 13-20	<u>People of the State of Illinois v. Sheridan-Joliet Land Development, LLC, and Sheridan Sand & Gravel Co. (Wiensland Site)</u> – No action taken.	L-E
PCB 13-22	<u>Mahomet Valley Water Authority, City of Champaign, Illinois, Donald R. Gerard, City of Urbana, Illinois, Laurel Lunt Prussing, City of Bloomington, Illinois, County of Champaign, Illinois, County of Piatt, Illinois, Town of Normal Illinois, Village of Savoy, Illinois and City of Decatur v. Clinton Landfill</u> – No action taken.	L-E, Citizens
PCB 13-28	<u>People of the State of Illinois v. Atkinson Landfill Company</u> – No action taken.	W-E
PCB 13-58	<u>ABP Properties, LLC v. IEPA (Incident No. 20120606)</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 Coles County facility.	4-0 UST Appeal
PCB 13-59	<u>ABP Properties, LLC v. IEPA (Incident No. 20120616-62395)</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 Coles County facility.	4-0 UST Appeal
PCB 13-60	<u>People of the State of Illinois v. Village of Atkinson</u> – No action taken.	W-E
PCB 13-61	<u>People of the State of Illinois v. City of Galva</u> – No action taken.	W-E
PCB 13-65	<u>Natural Resources Defense Council, Prairie Rivers Network, and Sierra Club v. Illinois Environmental Protection Agency and Dynegy Midwest Generation, Inc.</u> – No action taken.	W-PA, NPDES, 3d P
PCB 13-73	<u>Johnson-Pate Pork, Inc. - Afton Township v. IEPA</u> – The Board granted Illinois Environmental Protection Agency’s motion for withdrawal of its recommendation for tax certification and closed the docket.	4-0 T-C, W

<p>PCB 14-4 (See also PCB 12-94)</p>	<p><u>CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA</u> – The Board entered a procedural order presenting an alternative path for resolution of the issues presented in both PCB 12-94 and PCB 14-4. The parties are requested to comment on the option presented. The Board reserved ruling on the pending motion to vacate, accepting the newly-filed variance petition docketed as PCB 14-4, and the motion to incorporate prior records.</p>	<p>4-0 W-V</p>
<p>PCB 14-5</p>	<p><u>People of the State of Illinois v. A. C. Pavement Striping Co.</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 Kane County facility, the Board ordered publication of the required newspaper notice.</p>	<p>4-0 W-E</p>
<p>PCB 14-6</p>	<p><u>Jon Chvalovsky v. Exelon and Commonwealth Edison</u> – No action taken.</p>	<p>N-E, Citizens</p>
<p>PCB 14-7</p>	<p><u>Johnson-Pate Pork, Inc.-Afton v. IEPA</u> – The Board found and certified that specified facilities of Johnson-Pate Pork, Inc. located in DeKalb County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).</p>	<p>4-0 T-C, W</p>
<p>PCB 14-8</p>	<p><u>People of the State of Illinois v. Isaac Capps</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 Effingham County facility, the Board ordered publication of the required newspaper notice.</p>	<p>4-0 L-E</p>
<p>PCB 14-9</p>	<p><u>David E. Brewer - Andover v. IEPA</u> – The Board found and certified that specified facilities of David E. Brewer 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)).</p>	<p>4-0 T-C, W</p>
<p>PCB 14-10</p>	<p><u>Illinois Power Holdings, LLC, AmerenEnergy Medina Valley Cogen, LLC, and Ameren Energy Resources, LLC as Co-Petitioner v. IEPA</u> – No action taken.</p>	<p>A-V</p>

CASES PENDING DECISION

R13-11	<u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u> <ul style="list-style-type: none">Proposed Rule; First Notice; Opinion & Order	Water
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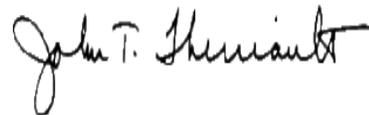
OTHER ITEMS

	The Board granted the Chairman's Motion to hold four videoconference, Closed Board Meetings, on Wednesday, August 7, 2013, at 2:00 PM, August 21, 2013, at 2:00 PM, Wednesday, September 4, 2013, at 2:00 PM, and September 18, 2013, at 2:00 PM. All meetings will be held in both Room 11-512 of James R. Thompson Center, Chicago, and in IPCB Conference Room 1244, 1021 N. Grand Avenue East, Springfield, as authorized by the exception in Section 2(c)(1) of the Open Meetings Act (5 ILCS 120/2(c)(1)) concerning personnel matters.	4-0
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ADJOURNMENT

Moved and seconded, by a vote of 4-0, Member Zalewski adjourned the meeting at 11:32 a.m.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on August 8, 2013, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board