

# ILLINOIS POLLUTION CONTROL BOARD

## MEETING MINUTES

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**September 5, 2013**

**11:00 a.m.**

**Chicago**

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

### **ANNOUNCEMENTS**

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

### **ROLL CALL**

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

### **APPROVAL OF MINUTES**

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The minutes of the August 22, 2013 open meeting were approved by a vote of 4-0. The minutes of the August 29, 2013 closed deliberative session under 5 ILCS 120/2(c)(4) were approved by a vote of 4-0.

## RULEMAKINGS

<b>R13-15</b>	<u>RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2012 through December 31, 2012)</u> – The Board adopted a final opinion and order in this rulemaking to amend the Board’s hazardous waste regulations.	4-0 Land
<b>R14-6</b>	<u>National Ambient Air Quality Standards, USEPA Regulations (January 1, 2013 through June 30, 2013)</u> – The Board adopted a proposal for public comment in this rulemaking to amend the Board’s air pollution control regulations. A hearing will be held by videoconference simultaneously in Chicago and Springfield on October 31, 2013.	4-0 Air
<b>R14-7</b>	<u>Definition of VOM Update, USEPA Amendments (January 1, 2013 through June 30, 2013)</u> – The Board adopted a proposal for public comment in this rulemaking to amend the Board’s air pollution control regulations. A hearing will be held by videoconference simultaneously in Chicago and Springfield on October 31, 2013.	4-0 Air

## ADJUSTED STANDARDS

<b>AS 09-4</b>	<u>In the Matter of: Petition of Royal Fiberglass Pools, Inc. for an Adjusted Standard from 35 IAC 215.301</u> – The Board granted the parties’ motion to reopen the docket and substituted the company’s new owner for Royal Fiberglass Pools, Inc. The Board amended its February 18, 2010 order in this matter and granted Latham Pools Products, Inc., d/b/a Viking Pools (Viking Pools) an adjusted standard from 35 Ill. Adm. Code 215.301 (8 lb/hr Rule), effective September 5, 2013, subject to conditions. The adjusted standard applies to the emissions of volatile organic material (VOM) into the atmosphere from Viking Pools’ swimming pool manufacturing facility at 312 Duncan Lane, Dix, Jefferson County.	4-0 Air
<b>AS 13-5</b>	<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> – The Board granted petitioner’s motion for expedited review consistent with available resources and decision deadlines.	4-0 Water

## ADMINISTRATIVE CITATIONS

<p><b>AC 12-53</b></p>	<p><u>IEPA v. Thomas E. Porter, Beverly J. Bible, and Todd &amp; Tabitha Booten d/b/a C &amp; T Recycling</u> – The Board entered an interim opinion and order finding respondents violated Sections 21(p) (1) and (p) (3) of the Illinois Environmental Protection Act (415 ILCS 5/21(p) (1), (p) (3) (2012)) and assessing a penalty of \$3,000. The Board ordered the Clerk of the Board and the Illinois Environmental Protection Agency to file by October 7, 2013, a statement of hearing costs, supported by affidavit, with service on respondents. Respondents may respond to the cost statement within 21 days of service.</p>	<p>4-0</p>
<p><b>AC 13-28</b></p>	<p><u>IEPA v. Ray A. Hewerdine</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket.</p>	<p>4-0</p>
<p><b>AC 13-60</b></p>	<p><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.</p>	<p>4-0</p>
<p><b>AC 14-3</b></p>	<p><u>IEPA v. Thomas and Heather Farris</u> – The Board accepted for hearing Thomas Farris’ petition for review of this administrative citation involving a Hancock County facility. The Board found that Heather Farris defaulted by failing to timely to file a petition for review. The Board also found that Heather Farris violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), 21(p)(3), and 21(p)(7) (2012)). The Board withheld issuing a final order regarding Heather Farris until the Board makes its final decision regarding Thomas Farris.</p>	<p>4-0</p>
<p><b>AC 14-4</b></p>	<p><u>IEPA v. Mark &amp; Cheryl Rogers</u> – The Board accepted for hearing respondents’ petition for review of this administrative citation involving a Fulton County facility, but directed the respondents to serve a copy of the petition on the Agency and file proof of that service with the Board.</p>	<p>4-0</p>

<b>AC 14-6</b>	<u>IEPA v. Jonathon A. Banks d/b/a AMB Auto Repair &amp; Detailing and John T. &amp; Emily D. Howard</u> – The Board accepted for hearing Jonathon A. Banks’ petition for review of this administrative citation involving a Lawrence County facility. The Board found that John T. & Emily D. Howard defaulted by failing to timely to file a petition for review. The Board also found that John T. & Emily D. Howard violated Sections 55(k)(1) and 55(k)(3) of the Act (415 ILCS 5/55(k)(1), (k)(3) (2012)). The Board withheld issuing a final order regarding John T. & Emily D. Howard until the Board makes its final decision regarding Jonathon A. Banks.	4-0
<b>AC 14-11</b>	<u>IEPA v. Lois and Virgil Melvin</u> – The Board accepted an administrative citation against these Winnebago County respondents.	
<b>AC 14-12</b>	<u>IEPA v. Raben Tire Company, Inc. (IEPA File No. 224-13-AC)</u> – The Board accepted an administrative citation against this Saline County respondent.	
<b>AC 14-13</b>	<u>IEPA v. Raben Tire Company, Inc. (IEPA File No. 226-13-AC)</u> – The Board accepted an administrative citation against this Saline County respondent.	

**ADJUDICATORY CASES**

<b>PCB 05-196</b>	<u>Kapp, Inc. v. Hartley Carlton, individually and d/b/a One Hour Cleaners</u> – In this citizen land and water enforcement action concerning a Macon County facility, the Board accepted a stipulation and settlement agreement and closed the docket.	4-0 L, W-E, Citizens
<b>PCB 08-30</b>	<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
<b>PCB 10-61 PCB 11-2 (cons.)</b>	<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> – The Board granted Springfield Coal LLC’s request asking that the Board determine that certain documents are confidential and non-disclosable. The Board found that the materials are confidential and not disclosable to persons not a party to this proceeding.	3-0 Burke abstained W-E

<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> – The Board denied Eagle Point Farms, LLC, Hilltop View, LLC, Little Timber, LLC, Timberline, LLC, Prairie State Gilts, Lone Hollow, LLC, High-Power Pork, LLC’s (collectively, “owners”) motions to sever the counts in the second amended complaint. The Board also denied Professional Swine Management and the owners’ joint motion to strike unsupported or untrue factual assertions in complainant’s combined response. Finally, the Board denied complainant’s motion for an extension of time to file a response to the joint motion to strike, the motion for leave to file a reply, and the reply. The Board made no determination on the outstanding motions to strike affirmative defenses.	4-0 L-E
<b>PCB 12-21</b>	<u>People of the State of Illinois v. Ironhustler Excavating, Inc. and Ron Bright, d/b/a Quarter Construction</u> – No action taken.	L-E
<b>PCB 12-94</b> (See also <b>PCB 14-4</b> )	<u>CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA</u> – No action taken.	W-V
<b>PCB 13-15</b>	<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
<b>PCB 13-17</b>	<u>Natural Resources Defense Council, Prairie Rivers Network, and Sierra Club v. Illinois Environmental Protection Agency and Dynegy Midwest Generation, Inc.</u> – Because the Board did not accept the complaint in PCB 13-65, the motion to consolidate is moot.	3-0 Burke abstained W-PA, NPDES, 3d P
<b>PCB 13-22</b>	<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
<b>PCB 13-28</b>	<u>People of the State of Illinois v. Atkinson Landfill Company</u> – No action taken.	W-E

<b>PCB 13-56</b>	<u>Consolidated Ice Company v. IEPA</u> – The Board dismissed Consolidated Ice Company’s petition for review for failure to timely file an amended petition for review accompanied by the appearance of an attorney as directed.	4-0 P-A, Land
<b>PCB 13-65</b> (See also 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> – The Board dismissed the complaint as the complaint fails to state a cause of action upon which the Board can grant relief. The motion to consolidate this matter with PCB 13-17 is moot.	3-0 Burke abstained W-PA, NPDES, 3d P
<b>PCB 14-1</b>	<u>Chatham BP, LLC v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 14-3</b>	<u>Johns Manville v. Illinois Department of Transportation</u> – No action taken.	L-E, Citizens
<b>PCB 14-4</b> (See also PCB 12-94)	<u>CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA</u> – No action taken.	W-V
<b>PCB 14-6</b>	<u>Jon Chvalovsky v. Exelon and Commonwealth Edison</u> – No action taken.	N-E, Citizens
<b>PCB 14-17</b>	<u>Creasey Family Farms (Property ID No. 17-000-266-00) v. IEPA</u> – The Board found and certified that specified facilities of Creasey Family Farms located in McDonough County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2012)).	4-0 T-C, W
<b>PCB 14-18</b>	<u>The Premcor Refining Group, 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 Tazewell County facility.	4-0 UST Appeal 90 Day Ext.
<b>PCB 14-19</b>	<u>People of the State of Illinois v. Walsh Construction Company</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 Madison County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E

**CASES PENDING DECISION**

<b>R12-23</b>	<u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs):</u> <u>Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u> – Proposed Rule; First Notice; Opinion & Order	Water
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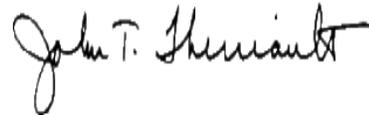
**OTHER ITEMS**

NONE

**ADJOURNMENT**

Moved and seconded, by a vote of 4-0, Member Zalewski adjourned the meeting at 11:26 a.m.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on September 19, 2013, by a vote of 4-0.



John T. Therriault, Clerk  
Illinois Pollution Control Board