
Environmental Register

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Letter from the Chairman

In November we had a change in Board Members. Dr. Shundar Lin's tenure with the Board ended on November 15, 2009. We are very grateful for Member Lin's service. He came to the Board after serving nearly 35 years as Senior Professional Scientist at the Illinois State Water Survey. Throughout his career, he acquired extensive research experience in microbiology, lake and stream water quality, wastewater management, stream sanitation, and environmental engineering. This background and his attention to detail have been great assets in our work. We will miss Dr. Lin and wish him the best in all of his future endeavors.

We would also like to take this opportunity to welcome to the Board our newest Member, Carrie Zalewski. Member Zalewski was appointed by Governor Pat Quinn on November 16, 2009. Member Zalewski is a licensed attorney in Illinois. Prior to joining the Board, she served as Assistant Chief Counsel at the Illinois Department of Transportation, where she was lead environmental compliance attorney. At IDOT, Member Zalewski gained experience with various environmental issues involving the federal Clean Water Act, drainage law, and leaking underground storage tanks. She previously worked in private practice and for the Office of the State Appellate Defender.

Member Zalewski earned a J.D. from Chicago-Kent College of Law, Illinois Institute of Technology, and a B.S. in Engineering from the University of Illinois at Urbana. She is a member of the 2008 class of the Illinois Women's Institute for Leadership, and she serves on the Board of Directors for both the Chicago Youth Centers (Metropolitan) and the LaGrange YMCA.

With this professional experience and educational background, Member Zalewski will add a valuable perspective to the Board's work. We extend our congratulations on her appointment and look forward to working together to protect human health and the environment as Members of the Pollution Control Board.

Dr. G. Tanner Girard

Thomas E. Johnson

Andrea S. Moore

Gary L. Blankenship

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Appellate Update

Third District Affirms Board Opinion Upholding Kankakee County’s Denial of Local Siting Approval for Expansion of the Kankakee Landfill in Waste Management of Illinois v. Illinois Pollution Control Board and County Board of Kankakee County, Illinois, No. 3-08-0333 (3rd Dist. Nov. 13, 2009)(Board’s order in PCB 04-186 (final order of Jan. 24, 2008, as reaffirmed on reconsideration April 3, 2008))

In a November 13, 2009 16-page order, the Third District Appellate Court affirmed the Board in the landfill siting appeal captioned Waste Management of Illinois v. Illinois Pollution Control Board and County Board of Kankakee County, Illinois, No. 3-08-0333 (3rd Dist. Nov. 13, 2009) (hereinafter WMI (3rd Dist.)). The court’s ruling was an unpublished order, issued under Illinois Supreme Court Rule 23 (166 Ill.2d R.23 Justice McDade authored the order, with Justices Holdridge and Schmidt concurring.

The County Board of Kankakee County (County) had denied the 2003 application of Waste Management of Illinois (WMI) application for siting approval of an expansion of Kankakee Landfill. See Section 39.2 of the Illinois Environmental Protection Act (Act), 415 ILCS 5/39.2 (2008). The Board affirmed the County in a January 24, 2008 opinion and order, finding that the local siting proceedings were fundamentally fair and that the County’s decisions on the three contested siting criteria (need, incompatibility/property values, and traffic) were not against the manifest weight of the evidence. Waste Management of Illinois, Inc. v. County Board of Kankakee County, PCB 04-186 (final order of Jan. 24, 2008, as reaffirmed on reconsideration April 3, 2008)) (hereinafter WMI, PCB 04-186). WMI appealed the Board’s decision to the Third District Appellate Court. The Third District heard oral argument on the appeal on September 3, 2009 before issuing its November 13, 2009 ruling.

Local Siting and Board Proceedings

In its November 13, 2009 Rule 23 order, the court first provided background on WMI’s prior application for siting approval of the proposed expansion (2002 application). WMI (3rd Dist.), Order at 1-3. The County approved WMI’s 2002 application in January 2003, after which third-party objectors appealed the County’s decision to the Board. In its opinion and order resolving four consolidated appeals, the Board vacated the County’s approval of WMI’s 2002 application, finding that the County lacked jurisdiction because WMI failed to comply with all of the statutory requirements for providing pre-filing notice to affected property owners. *Id.* at 3. (The case before the Board was captioned City of Kankakee et al. v. County of Kankakee et al., PCB 03-125, 03-133, 03-134, and 03-135 (cons.) (final order of Aug. 7, 2003, as reaffirmed on reconsideration Oct. 16, 2003.)). The Third District Appellate Court affirmed the Board’s decision in Waste Management of Illinois, Inc. v. Illinois Pollution Control Board, 356 Ill. App. 3d 229, 826 N.E.2d 586 (3rd Dist. 2005). WMI (3rd Dist.), Order at 3.

Following local hearings on WMI’s 2003 application, the County found that WMI failed to satisfy all of the siting criteria of Section 39.2(a) of the Act, 415 ILCS 5/39.2(a)(2008). WMI (3rd Dist.), Order at 5. The County voted 16-12 against criterion (i) (*i.e.*, WMI failed to show that the facility is necessary to accommodate the waste needs of the area it is intended to serve); 18-10 against criterion (iii) (*i.e.*, WMI failed to prove that the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property); and 16-12 against criterion (vi) (*i.e.*, WMI failed to demonstrate that the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows). *Id.* With respect to these three criteria, the County’s vote on the 2002 application had been unanimous in favor of WMI. *Id.* at 3.

WMI filed a petition for review with the Board on the grounds that impermissible *ex parte* contacts between the County and Bruce Harrison prejudiced WMI and that the County's findings on criteria (i), (iii), and (vi) were against the manifest weight of the evidence. WMI (3rd Dist.), Order at 5. Following the Board's hearing, the Board affirmed the County's denial of the 2003 application in an 18-page opinion and order issued January 24, 2008. The Board found that any *ex parte* contacts with County Board members did not render the local proceedings fundamentally unfair; that WMI was not entitled to question County Board members at the Board hearing as to why their votes changed between the 2002 and 2003 applications; and that the County's findings as to criteria (i), (iii), and (vi) were not against the manifest weight of the evidence. *Id.* at 5-6.

Fundamental Fairness

The court explained that the "clearly erroneous" standard of review applies to the Board's fundamental fairness determination in WMI, PCB 04-186, as that determination raises a "mixed question of law and fact." WMI (3rd Dist.), Order at 7, quoting Peoria Disposal Co. v. Illinois Pollution Control Board, 385 Ill. App. 3d 781, 797, 896 N.E.2d 460, 474-75 (3rd Dist. 2008). Under the clearly erroneous standard, the court will not overturn the Board's ruling on fundamental fairness "unless after a review of the entire record, we are left with the definite and firm conviction that a mistake has been committed." WMI (3rd Dist.), Order at 7.

The court affirmed the Board's determination that the local proceedings were fundamentally fair, agreeing with the Board that WMI failed to make the required showing of prejudice. WMI (3rd Dist.), Order at 7. WMI did not deny that it had a full opportunity to present evidence to the County and even though the County changed its vote between WMI's 2002 and 2003 applications, WMI did not prove that any improper *ex parte* contacts by Harrison influenced the County's ultimate decision on the 2003 application. *Id.* at 7-8. The record contained evidence to support the Board's determination, including the testimony of County Board members contacted by Harrison. *Id.* at 10. Those members testified "that they either refused to talk to Harrison, or that they engaged in no substantive conversation, or that they did not consider the substance of Harrison's communications as evidence." *Id.* at 10-11. Further, the court noted the Board's finding that there were significant differences between the two proceedings, making the change in vote "explainable by independent factors." *Id.* at 11.

Additionally, applying an "abuse of discretion" standard of review, the court affirmed the Board's ruling that the Board hearing officer properly precluded WMI from questioning County Board members on their decision-making thought processes. WMI (3rd Dist.), Order at 11-12.

Siting Criteria

WMI also contested the Board's decision affirming the County's determination that WMI failed to satisfy siting criteria (i), (ii), and (vi) of Section 39.2(a) of the Act. WMI (3rd Dist.), Order at 12. The court explained that it reviews the Board's decision, not the local siting authority's decision, and that the Board's decision on the statutory siting criteria will not be reversed "unless it is against the manifest weight of the evidence." *Id.*, quoting Peoria Disposal Co., 385 Ill. App. 3d at 800, 896 N.E.2d at 477. Accordingly, "[f]or reversal to be warranted, it must be clearly evident from the record that the [Board] should have reached the opposite conclusion. [Citation.] That the opposite conclusion is reasonable or that the reviewing court might have ruled differently if it were the trier of fact is not enough to justify a reversal." WMI (3rd Dist.), Order at 12.

Siting Criterion (i)—Need

The court cited evidence that WMI's expert used rates below the actual recycling rates in the service area and failed to consider newly-permitted nearby landfills and a newly-sited landfill. WMI (3rd Dist.), Order at 13-14. Stating that it does not "reweigh" the evidence, the court held that the Board's order affirming the County's determination that the proposed expansion is unnecessary to accommodate the waste needs of the service area was not against the manifest weight of the evidence. *Id.* at 14, citing File v. D & L Landfill, Inc., 219 Ill. App. 3d 897, 907, 579 N.E.2d 1228, 1236 (5th Dist. 1991).

Siting Criterion (iii)— Incompatibility/Property Values; Siting Criterion (vi)—Traffic

The court analyzed together the siting criteria (iii) and (vi) of Section 39.2 of the Act. 415 ILCS 5/39.2 (iii), (iv). WMI (3rd Dist.), Order at 14-16. The court rejected WMI's argument that the opinion of WMI's expert on property values was un rebutted. The court noted that the public expressed its opinion that the proposed expansion would have an adverse impact on surrounding property. *Id.* at 15. The court ruled that "[t]he public comment alone rebuts the expert's testimony on the impact on surrounding property," adding:

Waste Management cannot argue that the [County] could not consider the opinion of laypersons who actually experience the impact on their property caused by a nearby landfill. So too, although an expert's opinion might be *sufficient* to satisfy criterion (iii), there is no authority for the suggestion that a local siting authority *must* find criterion (iii) satisfied if only the applicant finds an expert to say it is satisfied." *Id.* (emphasis in original).

Delineating weaknesses in the analysis of WMI's expert, the court found that neither the Board nor the court is required to simply accept an expert's conclusion. *Id.*

The court further found that a traffic engineer's opinion rebutted WMI's expert's conclusions regarding the proposed expansion's impact on traffic flow. *WMI* (3rd Dist.), Order at 15. The County recognized that two experts testified on criterion (vi) and the County "chose the opinion it would give greater weight." *Id.* at 16. The court also quickly disposed of WMI's suggestion that if the applicant presents any plan for minimizing traffic impact, the County must find the criterion met unless the County receives evidence of a "better" plan to minimize the expansion's impact.

The court found that it was "faced with a battle between the witnesses and experts, both with factually supportable conclusions." *WMI* (3rd Dist.), Order. at 16. The court held that it does not reweigh the evidence or reassess the witness' credibility and concluded that the Board's decision affirming the County was not against the manifest weight of the evidence. *Id.* at 15-16.

Rulemaking Update

Pollution Control Board Stays, at IEPA Request, the Vapor Intrusion Portion of a Proposed Rulemaking to Amend Rules for Tiered Approach to Corrective Action Objectives (TACO), R 09-9

The Illinois Pollution Control Board, on November 5, 2009, granted the Illinois Environmental Protection Agency's (IEPA) motion to stay the "vapor intrusion" portion of IEPA's proposal to amend the Board's rules concerning the Tiered Approach to Corrective Action Objectives (TACO). The migration process of volatile chemicals that have the potential to migrate from the soil and groundwater to indoor air has been colloquially referred to as "vapor intrusion."

The partial stay in the rulemaking docketed as In the Matter of: Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742) (R09-9), will last through November 5, 2010, unless the Board issues an order terminating the stay sooner.

In its October 5, 2009 motion, IEPA asked the Board to stay only the portion of the TACO rulemaking dealing with the "proposed amendments that pertain to vapor intrusion." IEPA stated that after the second hearing and the pre-first notice public comment period, representatives of the United States Environmental Protection Agency expressed serious concerns with the vapor intrusion part of IEPA's rulemaking proposal. IEPA sought the partial stay to evaluate USEPA's concerns, the impact of those concerns on the IEPA proposal, and the latest research findings on vapor intrusion. IEPA must file status reports during the term of the stay as directed in the Board's November 5, 2009 order. The balance of IEPA's proposed rule language is not subject to the stay.

IEPA had filed the pending rulemaking proposal on September 3, 2008, at which time IEPA noted that the TACO rules provide "procedures for developing remediation objectives based on various risks to human health posed by environmental conditions at a site." With the proposed amendments to the TACO rules, IEPA seeks to "add the indoor inhalation exposure route to the existing risk-based methodology." The proposed comprehensive changes include new definitions, equations, parameters, default remediation objectives, and mechanisms for managing the indoor inhalation pathway. The Board has held two hearings on the IEPA proposal, but the Board has not yet adopted a set of rules based on the proposal for first notice publication under the Administrative Procedure Act, 5 ILCS 100/5-40(2008).

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded from the Web without charge. Hard copies may be obtained for \$.75 per page from the Clerk's office: Clerk of the Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.

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For more information contact Richard McGill at 312-814- 6983 or email at mcgillr@ipcb.state.il.us.

Board Accepts for Hearing IEPA Fast-track Proposal, and Adopts for First Notice Changes to the Volatile Organic Material Emission Control Regulations for Group III Consumer and Commercial Products, R10-10

On November 5, 2009, the Illinois Pollution Control Board accepted for hearing, and adopted for first notice, the rulemaking proposal docketed as In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emission From Group III Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 281 and 219 (R10-10). This rulemaking was filed on October 23, 2009 by the Illinois Environmental Protection (IEPA) pursuant to the “fast-track” rulemaking provisions at Section 28.5 of the Environmental Protection Act (Act).

The IEPA states that it seeks to satisfy Illinois’ obligations under the federal Clean Air Act (CAA) to submit a State Implementation Plan (SIP) to address requirements for sources of volatile organic material (VOM) emissions in areas designated as nonattainment with respect to ozone National Ambient Air Quality Standard (NAAQS). Specifically, the IEPA proposes VOM emission controls in response to control techniques guidelines (CTGs) issued for the following Group III Consumer and Commercial Product Categories: paper, film, and foil coatings; metal furniture coatings; and large appliance coatings.

Under Section 28.5, the Board is required to proceed toward adoption of the regulation by following strict deadlines. The first of those deadlines is that the Board must “within 14 days of receipt of the proposal” file for first notice under the Illinois Administrative Procedure Act and schedule all required hearings. Therefore, the Board accepted the proposal without commenting on the merits and adopted the rule for first notice. In addition, the Board directed the hearing officer to expeditiously schedule all hearings in this proceeding.

In an order dated November 5, 2009, the hearing officer scheduled three hearings to take place in Chicago. The first begins Wednesday, December 9, 2009, the second begins Wednesday, January 6, 2010, and the third begins Wednesday, January 20, 2010. The second hearing will be held if, within seven days after the first hearing, any person requests a second hearing. The third hearing will be cancelled if the IEPA indicates to the Board that the IEPA will not introduce any additional materials. Hearings shall be continued day-to-day as necessary to complete the subject matter of the hearing.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address: Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.

In addition, public comments may be filed electronically through COOL at www.ipcb.state.il.us. Any questions about electronic filing through COOL should be directed to the Clerk’s Office at (312) 814-3629

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board’s Web site and may be downloaded from the Web without charge. Hard copies may be obtained for \$.75 per page from the Clerk’s office

For more information contact Tim Fox at (312)-814-6085 or email at foxt@ipcb.state.il.us.

Board Actions

November 5, 2009

Chicago, Illinois

Rulemakings

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| R09-9 | <u>In the Matter of: Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)</u> – The Board granted the Illinois Environmental Protection Agency’s unopposed motion for partial stay of the R09-9 TACO rulemaking. Specifically, this is a 12-month stay of the portion of the rulemaking that pertains to vapor intrusion. | 5-0
Land |
| R10-10 | <u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions From Group III Consumer & Commercial Products: Proposed Amendments to 35 Il. Adm. Code 218 and 219</u> – The Board accepted for hearing the Illinois Environmental Protection Agency’s October 23, 2009 proposal to amend the Board’s air regulations under the fast track rulemaking procedures of Section 28.5 of the Act. The Board granted petitioner’s motion to waive specified copy requirement. The Board authorized first-notice publication of the proposal without comment on the proposal’s merits, and directed the hearing officer to set hearings under the fast track timetable. | 5-0
Air |

Administrative Citations

- | | | |
|----------------|---|-----|
| AC 9-2 | <u>IEPA v. Bradley & Carol Corzine</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Union County facility, the Board found that respondents had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2008)) and ordered respondents to pay a civil penalty of \$1,500. The Board also dismissed respondents’ petition for review and the alleged violation of 415 ILCS 5/21(p) (7) (2008). | 5-0 |
| AC 10-2 | <u>IEPA v. City of Salem, John Pruden, Jason Bruce, and Lee Owens</u> – The Board dismissed this administrative citation for failure to serve respondents the citation within 60 days after the date of the observed violation. | 5-0 |

Adjudicatory Cases

- | | | |
|-------------------|---|------------|
| PCB 97-193 | <u>People of the State of Illinois v. Community Landfill Company, Inc.</u> | 5-0 |
| PCB 04-207 | <u>People of the State of Illinois v. Edward Pruim and Robert Pruim</u> – The Board denied respondents’ motions to reconsider its August 20, 2009 opinion and order. | L-E |
| PCB 03-191 | <u>People of The State of Illinois v. Community Landfill Company, Inc. and City of Morris</u> – The Board denied in their entirety both respondents’ motions for stay of the Board’s June 18, 2009 order, after granting the City’s motion for leave to file a reply <i>instanter</i> . | 5-0
L-E |

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PCB 06-144	<u>People of the State of Illinois v. Golden Bag Company</u> – In this air enforcement action concerning a Kane 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) (2006)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$20,000, and to cease and desist from further violations.	5-0 A-E
PCB 06-159	<u>People of the State of Illinois v. Gary Simmons, individually, and Lawrence County Disposal Centre, Inc.,</u> – The Board ordered the Lawrence County Disposal Centre, Inc. (Disposal Centre) to pay an additional \$32,164 which is the time use value of \$118,421.90 to recoup the economic benefit earned through non-compliance. The Board ordered Gary Simmons to pay an additional \$3,573 which is the time use value of \$118,421.90 to recoup the economic benefit earned through non-compliance. The Board also ordered respondents to reimburse complainant for legal costs of \$1,540. The Board previously, in an interim opinion and order dated July 23, 2009, the Board found that respondents had violated Sections 9(a), 21(d)(1) and (d)(2), and 22.17(a) and (b) of the Environmental Protection Act (415 ILCS 5/9(a), 21 (d)(1) and (d)(2), and 22.17(a) and (b) (2008)), 35 Ill. Adm. Code 745.201(b); 811.109(a); 811.111(c)(1)(A), (c)(2), and (c)(5); 811.310(c); 811.312(c); 811.315(e)(1)(G); 811.319(a), (a)(1), (a)(2), and (a)(3); 811 .320(d)(1); 813.501; and 813.502(a) of the Boards regulations. The Board assessed civil penalties of \$10,000 against Disposal Centre and \$1,000 against Gary Simmons individually.	5-0 L-E
PCB 07-47	<u>People of the State of Illinois v. City of Pekin</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Tazewell County facility, the Board ordered publication of the required newspaper notice.	5-0 L -E
PCB 07-68	<u>People of the State of Illinois v. Chippewa Loft, 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 Madison County facility, the Board ordered publication of the required newspaper notice.	5-0 A -E
PCB 07-70	<u>People of the State of Illinois v. J. B. Timmermann Farms, Ltd.</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 Clinton County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 08-103	<u>KCBX Terminals Company v. IEPA</u> – The Board granted this Cook County facility’s motion for voluntary dismissal of this permit appeal.	5-0 P-A, Air
PCB 09-40	<u>People of the State of Illinois v. Illinois Valley Paving Company, Inc.</u> – In this air enforcement action concerning a Peoria County facility, the Board granted complainant’s motion for voluntary dismissal of count II of the complaint and relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2006)), accepted a stipulation and settlement agreement. The Board ordered respondent to pay a total civil penalty of \$20,000, and to cease and desist from further violations.	5-0 W-E

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PCB 09-67	<u>Prime Location Properties, LLC v. IEPA</u> – The Board ordered the Illinois Environmental Protection Agency (IEPA) to reimburse petitioner for legal costs of \$10,088.18 from the Underground Storage Fund. The Board previously, in an interim opinion and order dated August 20, 2009, denied petitioner’s motion requesting sanctions against the IEPA and the IEPA’s motion to dismiss. The Board also reversed the IEPA’s January 27, 2009 determination and remanded the matter to the IEPA to undertake actions consistent with its opinion.	5-0 UST Appeal
PCB 10-25	<u>Currier Farms v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Currier Farms located in Bureau County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).	5-0 T-C, W
PCB 10-26	<u>Warrenville/Phillips Petroleum Company v. IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies on or before December 7, 2009, or the petition would be subject to dismissal.	5-0 UST Appeal
PCB 10-27	<u>Lockport/ConocoPhillips v. IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies on or before December 7, 2009, or the petition would be subject to dismissal.	5-0 UST Appeal
PCB 10-28	<u>New Horizon Pork, LLC - Roanoke v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of New Horizon 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 (2008)).	5-0 T-C, W
PCB 10-29	<u>People of the State of Illinois v. Waste Management of Illinois, Inc., a subsidiary of Waste Management, 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 Knox County facility, the Board accepted the case and ordered publication of the required newspaper notice.	5-0 W-E

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Administrative Citations

AC 10-3	<u>IEPA v. Les Curtis</u> – The Board accepted respondent’s amended petition for hearing.	4-0 Member Zalewski abstained
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AC 10-4	<u>County of Ogle v. Kathy Knutson, Steve Knutson, and Dan Bocker</u> – The Board found that Bocker defaulted by failing to timely file a petition for review and denied Kathy Knutson and Steve Knutson (the Knutsons) motion to dismiss. The Board accepted for hearing the Knutsons’ petition for review. The Board will reserve issuing a final order regarding Bocker until the Board makes its final decision regarding the Knutsons.	4-0 Member Zalewski abstained
AC 10-5	<u>County of Jackson v. Gary Clover</u> – The Board directed respondent to file an amended petition for review on or before December 21, 2009, or this action will be subject to dismissal.	4-0 Member Zalewski abstained

Adjudicatory Cases

PCB 07-113	<u>Rochelle Waste Disposal, L.L.C. v. The City of Rochelle, an Illinois Municipal Corporation and The Rochelle City Council</u> – The Board consistent with Appellate Court order modified its order of January 24, 2008.	4-0 Member Zalewski abstained P-C-F-S-R
PCB 09-31	<u>People of the State of IL v. James Buysee, d/b/a J & B Landscaping</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 Rock Island County facility, the Board ordered publication of the required newspaper notice.	4-0 Member Zalewski abstained W-E
PCB 09-104	<u>People of the State of Illinois v. Village of Rockton</u> – Upon receipt of an amended 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.	4-0 Member Zalewski abstained W-E
PCB 10-23	<u>United States Steel Corporation, a Delaware corporation v. IEPA</u> – The Board granted petitioners’ motion for a stay of the permit. No action was taken on petitioners’ motions to intervene and to appear <i>pro hac vice</i> .	4-0 Member Zalewski abstained P-A, Air
PCB 10-30	<u>ExxonMobil Oil Corporation v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Will County facility. No action was taken on petitioner’s motion to stay the effectiveness of the contested permit condition.	4-0 Member Zalewski abstained P-A, Water
PCB 10-31	<u>Veolia ES Valley View Landfill, Inc. v. County Board of Macon County, Illinois</u> – The Board accepted for hearing this pollution control facility siting appeal involving a Macon County facility.	4-0 Member Zalewski abstained P-C-F-S-R
PCB 10-32	<u>Highland Baking Company v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on motion for a partial stay of the construction permit.	4-0 Member Zalewski abstained P-A, Air
PCB 10-33	<u>Cancer Treatment Centers of America, Inc. v. IEPA</u> – The Board accepted for	4-0

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hearing this underground storage tank appeal involving a Lake County facility.

Member
Zalewski
abstained
UST Appeal

PCB 10-34 Jones Service Station v. IEPA – The Board accepted for hearing this underground storage tank appeal involving an Alexander County facility.

4-0
Member
Zalewski
abstained
UST Appeal

New Cases

November 5 2009 Board Meeting

10-25 Currier Farms v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Currier Farms located in Bureau County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).

10-26 Warrenville/Phillips Petroleum Company v. IEPA – The Board ordered petitioner to file an amended petition to cure noted deficiencies on or before December 7, 2009, or the petition would be subject to dismissal.

10-27 Lockport/ConocoPhillips v. IEPA – The Board ordered petitioner to file an amended petition to cure noted deficiencies on or before December 7, 2009, or the petition would be subject to dismissal.

10-28 New Horizon Pork, LLC - Roanoke v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of New Horizon 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 (2008)).

10-29 People of the State of Illinois v. Waste Management of Illinois, Inc., a subsidiary of Waste Management, Inc. – 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 Knox County facility, the Board accepted the case and ordered publication of the required newspaper notice.

AC 10-5 County of Jackson v. Gary Clover – The Board accepted an administrative citation against this Jackson County respondent.

R 10-10 In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions From Group III Consumer & Commercial Products: Proposed Amendments to 35 Il. Adm. Code 218 and 219 – The Board accepted for hearing the Illinois Environmental Protection Agency’s October 23, 2009 proposal to amend the Board’s air regulations under the fast track rulemaking procedures of Section 28.5 of the Act. The Board granted petitioner’s motion to waive specified copy requirement. The Board authorized first-notice publication of the proposal without comment on the proposal’s merits, and directed the hearing officer to set hearings under the fast track timetable.

November 19, 2009 Board Meeting

10-30 ExxonMobil Oil Corporation v. IEPA – The Board accepted for hearing this permit appeal involving a Will County facility. No action was taken on petitioner’s motion to stay the effectiveness of the contested permit condition.

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10-31 Veolia ES Valley View Landfill, Inc. v. County Board of Macon County, Illinois – The Board accepted for hearing this pollution control facility siting appeal involving a Macon County facility.

10-32 Highland Baking Company v. IEPA – The Board accepted for hearing this permit appeal involving a Cook County facility. No action was taken on motion for a partial stay of the construction permit.

10-33 Cancer Treatment Centers of America, Inc. v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Lake County facility.

10-34 Jones Service Station v. IEPA – The Board accepted for hearing this underground storage tank appeal involving an Alexander County facility.

AC 10-6 IEPA v. Larry M. Ison (IEPA No. 282-09-AC) – The Board accepted an administrative citation against this Jefferson County respondent.

AC 10-7 IEPA v. Larry M. Ison (IEPA No. 281-09-AC) – The Board accepted an administrative citation against this Jefferson County respondent.

AC 10-8 IEPA v. Info Corner Materials, Inc. – The Board accepted an administrative citation against this Sangamon County respondent.

Calendar

12/3/09 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
12/8/09 9:00 AM	R10-08	<u>In the Matter of Reasonable Available Control Technology (RACT) for Volatile Organic Material emissions from Group II Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 211, 218, and 219</u> (Continues until complete or through December 9, 2009)	James R. Thompson Center Room 9-039 100 W. Randolph Chicago
12/09/09 10:00 AM	R10-10	<u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions From Group III Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 218 and 219</u> (Continues day to day until business is complete)	James R. Thompson Center Room 11-512 100 W. Randolph Chicago
12/17/09 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago

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1/06/10 10:00 AM	R10-10	<p><u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions From Group III Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 218 and 219</u></p> <p>(Continues until complete or through January 8, 2010)</p>	<p>Michael A. Bilandic Building Room N-505 160 N. LaSalle Street Chicago</p>
1/7/10 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago
1/13/10 9:00 AM	R08-09	<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></p> <p>(Continues until complete or through January 14, 2010)</p>	<p>James R. Thompson Center Room 09-040 100 W. Randolph Chicago</p>
1/20/10 10:00 AM	R10-10	<p><u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions From Group III Consumer & Commercial Products: Proposed Amendments to 35 Ill. Adm. Code 218 and 219</u></p> <p>(Continues until complete or through January 22, 2010)</p>	<p>Michael A. Bilandic Building Room N-505 160 N. LaSalle Street Chicago</p>
1/20/10 9:30 AM	PCB 10-01	<u>Weeke Oil Company v. IEPA</u>	<p>Illinois Pollution Control Board Hearing Room 1021 North Grand Avenue E North Entrance Springfield</p>
1/21/10 11:00 AM	Illinois Pollution Control Board Meeting		James R. Thompson Center 100 W. Randolph Street Chicago

The Illinois Pollution Control Board is an independent five-member board that adopts environmental control standards, rules on enforcement actions, and other environmental disputes for the State of Illinois.

The *Environmental Register* is published monthly by the Board, and contains updates on rulemakings, descriptions of final decisions, the Board's hearing calendar, and other environmental law information.

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