

# ILLINOIS POLLUTION CONTROL BOARD

## MEETING MINUTES

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**April 21, 2011**

**11:00 a.m.**

**Chicago**

100 W. Randolph Street  
Chicago, IL

**Room 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 April 7, 2011 open meeting and the April 14, 2011 closed deliberative session were approved by a vote of 5-0.

## RULEMAKINGS

<b>R 07-21</b>	<u>In the Matter of: Site Specific Rule for City of Joliet Wastewater Treatment Plant Fluoride and Copper Discharges, 35 Ill. Adm. Code 303.432</u> – No action taken.	Water
<b>R 10-9</b>	<u>In the Matter of: Financial Assurance Instruments--Renewal and Terms: Amendments to 35 Ill. Adm. Code 807.Subpart F, 810.104 and 811.Subpart G</u> – The Board adopted a second notice opinion and order in this rulemaking proposal to amend the Board’s land pollution control regulations.	5-0 Land
<b>R 11-17</b>	<u>In the Matter of: Proposed Site-Specific NOx Rule Amendment Applicable to Saint-Gobain Containers, Inc. at 35 Ill Adm. Code Section 217.152(b)</u> – The Board adopted a final opinion and order in this rulemaking amending the Board’s air pollution control regulations.	5-0 Air

## ADJUSTED STANDARDS

None

## ADMINISTRATIVE CITATIONS

<b>AC 11-20</b>	<u>IEPA v. Richard Pagel</u> – The Board found that this Piatt County respondent violated 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2008)), and ordered respondent to pay a civil penalty of \$3,000.	5-0
<b>AC 11-22</b>	<u>IEPA v. Kyle E. Pritchett</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Wabash County facility.	5-0

## 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 06-17</b>	<u>Morgan Southern Company v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 07-63</b>	<u>PMA &amp; Associates, Inc. v. IEPA</u> – No action taken.	UST Appeal

<b>PCB 07-99</b>	<u>L. W. Paul Supply Co., Inc v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 07-108</b>	<u>Reed's Service v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 07-120</b>	<u>Ruth Oil Company v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 07-126</b>	<u>Gateway FS, Inc. v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 07-127</b>	<u>Pioneer Oil Company v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 07-129</b>	<u>Yesley Service Company, Inc. v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 07-137</b>	<u>Russell Oil Company, Inc. v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 07-138</b>	<u>Watertower Marina, Inc. v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 08-7</b>	<u>People of the State of Illinois, v. Union Pacific Railroad Company, a Delaware Corporation</u> – In this water enforcement action concerning a Cook 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) (2008)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$\$20,000, and to cease and desist from further violations.	5-0 W-E
<b>PCB 08-10</b>	<u>Dunn's University BP (Corrective Action Plan dated March 5, 2007) v. IEPA</u> – No action taken.	UST Appeal
<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> – The Board denied respondents' motion for reconsideration and for leave to seek interlocutory appeal of the Board's February 3, 2011 order, denying motions for dismissal and summary judgment. The Board also granted E.R. 1, LLC. Motion to appear as complainant.	5-0 L-E, Citizens
<b>PCB 08-43</b>	<u>Moto, Inc. v. IEPA</u> – No action taken.	UST Appeal

<b>PCB 09-35</b>	<u>People of the State of Illinois v. Alan Durkee, d/b/a Alan Durkee Swine Farm</u> – The Board granted complainant’s motion for additional time to comply with the Board’s order of March 3, 2011.	5-0 A-E
<b>PCB 09-50</b>	<u>Schrof Service Center v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 09-102</b>	<u>Peter Arendovich v. the Illinois State Toll Highway Authority</u> – No action taken.	N-E, Citizens
<b>PCB 10-9</b>	<u>People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., Combe Laboratories, Inc., General Electric Railcar Services Corporation, P &amp; H Manufacturing, Inc</u> – In this cost recovery enforcement action concerning a Macon 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) (2008)) as to the following only; Aramark Uniform & Career Apparel, LLC, Bell Sports, Inc., Caterpillar, Inc., General Electronic Railcar Services Corporation and P & H Manufacturing, Inc., accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$22,250.60, and to cease and desist from further violations. The respondents under the March 11, 2011 stipulation, agreed to pay the following in litigation reimbursement costs; 1) Aramark agreed to pay litigation reimbursement costs of \$250; 2) Bell Sports agreed to pay litigation reimbursement costs of \$ \$500; 3) Caterpillar agreed to pay litigation reimbursement costs of \$950; and, 4) GE Railcar agreed to pay litigation reimbursement costs of \$300. Under the March 15, 2011 stipulation, P & H agreed to pay litigation reimbursement costs of \$150.	5-0 L-E
<b>PCB 10-54</b>	<u>Zervos Three, Inc. v. IEPA</u> – No action taken.	UST Appeal
<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 10-70</b>	<u>Wheeling/GWA Auto Shop v. IEPA</u> – No action taken.	UST Appeal

<b>PCB 10-72</b>	<u>People of the State of Illinois v. Byrom Ward, d/b/a Ward Electric, and Timothy James</u> – No action taken.	L-E
<b>PCB 10-73</b>	<u>Metropolitan Pier &amp; Exposition Authority v. IEPA</u> – No action taken.	P-A, Land
<b>PCB 10-75</b>	<u>Chicago Coke Co., Inc. v. IEPA</u> – The Board granted the Natural Resources Defense Council (NRDC)/Sierra Club’s motion to intervene, giving party status to NRDC/Sierra Club as an intervenor, subject to the restrictions on NRDC/Sierra Club’s participation.	3-2 Members Johnson and Zalewski dissented P-A, Air
<b>PCB 10-76</b>	<u>Coalville Road Enterprises v. IEPA</u> – The Board granted the Illinois Environmental Protection Agency’s (Agency) motion for summary judgment. The Board affirmed the Agency’s February 24, 2010 determination to deny petitioner’s application for a supplemental permit.	5-0 P-A, Land
<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> – No action taken.	Citizens, L-E
<b>PCB 10-102</b>	<u>People of the State of Illinois v. City of Charleston</u> – In this water enforcement action concerning a Coles 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) (2008)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$23,800, and to cease and desist from further violations.	5-0 W-E

<p><b>PCB 10-110 PCB 11-43 (cons.)</b></p>	<p><u>KCBX Terminals Company v. IEPA</u> – The Board granted respondent’s motion to consolidate PCB 10-110 and PCB 11-43. In PCB 10-110, the Board granted petitioner’s motion for a discretionary stay of the contested permit conditions of the 2010 revised construction permit. Special Conditions 6, 7, and 11 are stayed in their entirety. Additionally, the Board grants KCBX’s motion to supplement the record of Illinois Environmental Protection Agency’s permit determination in PCB 10-110. In PCB 11-43, the Board granted petitioner’s motion to confirm that the renewed federally enforceable state operating permit is automatically stayed under the APA.</p>	<p>5-0 P-A, Air</p>
<p><b>PCB 11-10</b></p>	<p><u>Veolia ES Zion Landfill, Inc. v. City Council of the City of Zion, Illinois</u> – The Board struck Special Condition 2.2 of the August 3, 2010 siting approval.</p>	<p>5-0 L-S-App Third Party</p>
<p><b>PCB 11-38</b></p>	<p><u>Bureau Service Company v. IEPA</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 facility located in Bureau County.</p>	<p>5-0 UST Appeal</p>
<p><b>PCB 11-57</b></p>	<p><u>SCF Development, LLC v. IEPA</u> – No action taken.</p>	<p>P-A, Air</p>
<p><b>PCB 11-65</b></p>	<p><u>Chevron Environmental Management Company (10/27/09 to 9/3/10) 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 DuPage County facility.</p>	<p>5-0 UST Appeal, 90 Day Ext.</p>
<p><b>PCB 11-66</b></p>	<p><u>Chevron Environmental Management Company (8/1/2008 to 9/27/2009) 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 DuPage County facility.</p>	<p>5-0 UST Appeal, 90 Day Ext.</p>
<p><b>PCB 11-67</b></p>	<p><u>People of the State of Illinois v. Town of Cortland</u> – The Board accepted for hearing this water enforcement action involving a site located in Tazewell County.</p>	<p>5-0 W-E</p>

**CASES PENDING DECISION**

**OTHER ITEMS**

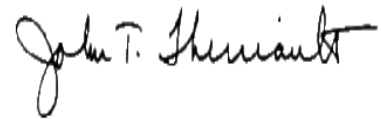
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## ADJOURNMENT

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Moved and seconded, by a vote of 5-0, Chairman Girard adjourned the meeting at 11:25 a.m.

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



John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board