

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



October 6, 2016

- Regular Board Meeting: 11:00 a.m.
 - Brown Bag Lunch Seminar: 12:00 p.m.
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REGULAR BOARD MEETING MINUTES

October 6, 2016
11:00 a.m.

Videoconference

Chicago
100 W. Randolph Street
Chicago, IL
Room 11-512

Springfield
1021 N. Grand Avenue East
Springfield, IL
Conference Room 1244 N, First Floor

ANNOUNCEMENTS

Chairman Keenan welcomed members of the public and staff.

ROLL CALL

The Clerk of the Board called the roll. All five Board Members answered present.

PUBLIC REMARKS

None.

APPROVAL OF MINUTES

The minutes of the September 22, 2016 Regular Board Meeting and Brown Bag Lunch Seminar were approved by a vote of 4-0. Also by a vote of 4-0, the Board approved the minutes of the September 29, 2016 Closed Deliberative Session under 5 ILCS 120/2(c)(4).. Member Johnson abstained from both votes.

RULEMAKINGS

R 16-9	<u>Wastewater Pretreatment Update, USEPA Amendments (July 1, 2015, through December 31, 2015) (Water)</u> – The Board adopted a proposal for public comment in this “identical-in-substance” rulemaking to amend the Board’s wastewater pretreatment regulations.	5-0
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ADMINISTRATIVE CITATIONS

AC 17-1	<u>County of Macon v. Don Roderick</u> – The Board on its own motion granted complainant leave to file an amended administrative citation correcting the applicable statutory penalty amount and directed complainant to serve respondent with any amended citation in accordance with 35 Ill. Adm. Code 108.200(b)(2).	5-0
AC 17-3	<u>County of Jackson v. Gary Clover</u> – The Board accepted respondent’s petition for hearing.	5-0

ADJUDICATORY CASES

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> (Land – Enforcement) – Upon receipt of proposed stipulations and settlement agreements and an agreed motion for relief from the hearing requirement in this water enforcement action at nine livestock facilities managed by Professional Swine Management and owned by the remaining respondents in the counties of Adams, Fulton, Hancock and Schuyler, the Board ordered publication of the required newspaper notice.	5-0
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PCB 16-43	<u>People of the State of Illinois v. Perfect Mulch Products, Inc.</u> (Air, Water – Enforcement) – In this air and 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) (2014)), accepted a stipulation and settlement agreement, and ordered respondent to pay a \$13,750 civil penalty, and cease and desist from further violations.	5-0
PCB 16-76	<u>Environmental Recycling and Disposal Services, Inc. v. Will County, Will County Board, and Waste Management of Illinois, Inc.</u> (Pollution Control Facility Siting Appeal) – The Board affirmed the Will County Board’s grant of siting approval for Waste Management of Illinois, Inc. (WMI) to expand the Laraway Recycling and Disposal Facility.	5-0
PCB 16-110	<u>People of the State of Illinois v. Casey's Retail Company</u> (Water – Enforcement) – In this water enforcement action concerning a LaSalle 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) (2014)), accepted a stipulation and settlement agreement, and ordered respondent to pay a \$12,000 civil penalty, and cease and desist from further violations.	5-0
PCB 17-8	<u>Christensen Swine-Sheffield v. IEPA</u> (Water – Tax Certification) – Member Zalewski stated that this matter would be held to allow for the running of the statutory period for petitioner to contest IEPA’s recommendation to deny certification in part. The Board took no action on this matter.	
PCB 17-9	<u>MSF Farms, LLC - New Boston v. IEPA</u> (Water – Tax Certification) – The Board found and certified that specified facilities of MSF Farms, LLC-New Boston located in Mercer County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).	5-0
PCB 17-10	<u>Next Gen Agriculture, LLP v. IEPA</u> (Water – Tax Certification) – The Board found and certified that specified facilities of NextGen Agriculture, LLP 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 (2014)).	5-0

OTHER ITEMS

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Keenan adjourned the Regular Board Meeting.

BROWN BAG LUNCH SEMINAR MINUTES

October 6, 2016

12:00 p.m.

Videoconference

100 W. Randolph Street
Chicago, IL
Room 11-512

1021 N. Grand Avenue East
Springfield, IL
Conference Rm 1244 N, 1st Floor

ROLL CALL

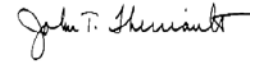
The Chairman called the roll. Four Board Members answered present.

<p><u>Peering Through Muddy Waters - WOTUS Update</u></p> <p>Member Burke provided a PowerPoint presentation on the United States Environmental Protection Agency (USEPA) and the Army Corps of Engineers’ (Army Corps) new rule defining jurisdictional “waters of the United States” (WOTUS) and its grounding in U.S. Supreme Court precedent. She first reviewed the history of the Clean Water Act and its original goals concerning the quality of navigable waters. The Clean Water Act defines the latter term as “waters of the United States,” leaving the details of this definition to the USEPA and the Army Corps. Those agencies’ attempts to craft a working definition led to a trio of Supreme Court decisions: <i>United States v. Riverside Bayview Homes</i> (1984); <i>SWANCC v. Army Corps of Engineers</i> (2001); and <i>Rapanos v. United States</i> (2006). Member Burke explained that Justice Kennedy’s separate opinion in the plurality <i>Rapanos</i> decision, and its conclusion that federal jurisdiction over wetlands hinges on a “significant nexus” between the wetland and a traditional water, substantially informed USEPA and Army Corps’ 2015 rule defining waters of the United States. As she further explained, the WOTUS rule effectively divides waters into three groups—those that are jurisdictional by rule (<i>e.g.</i>, tributaries, as defined by the rule); those that are excluded from Clean Water Act coverage (<i>e.g.</i>, artificial ponds); and those subject to a case-specific “significant nexus” evaluation (<i>e.g.</i>, Prairie potholes not otherwise covered by the rule). Member Burke noted that the WOTUS rule is controversial and has been subject to congressional challenges as well as federal court cases across the country filed by States, industry groups, and environmental organizations. A copy of the PowerPoint presentation is available on the Board’s website —(www.ipcb.state.il.us). The Board took no action on this matter.</p>	<p>Jennifer Burke, Illinois Pollution Control Board Member</p>
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ADJOURNMENT

Moved and seconded, by a vote of 3-0, Chairman Keenan adjourned the Brown Bag Lunch Seminar.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on October 27, 2016, by a vote of 5-0.



John T. Therriault, Clerk
Illinois Pollution Control Board