

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



February 2, 2006
Chicago/Springfield Videoconference
CHICAGO OFFICE – 100 W. Randolph Street
Videoconference Room 11-512
And
SPRINGFIELD OFFICE – 1021 N. Grand Avenue East
Oliver Holmes Conference Room 2012 N – Second Floor
11:00 A.M.

ANNOUNCEMENTS

Chairman Girard welcomed members of the public and staff.

ROLL CALL

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

APPROVAL OF MINUTES

Minutes of the January 19, 2006 meeting were approved by a vote of 4-0.

RULEMAKINGS

R06-5	<u>In the Matter of: UIC Corrections, USEPA Amendments (January 1, 2005 through June 30, 2005) ;In the Matter of RCRA Subtitle D</u>	4-0
R06-6	<u>Update, USEPA Amendments (January 1, 2005 through June 30,</u>	R, Land
R06-7	<u>2005 and August 1, 2005); In the Matter of RCRA Subtitle C</u>	
(cons.)	<u>Update, USEPA Amendments (January 1, 2005 through June 30,</u> 2005 and August 1, 2005) – The Board adopted a final Supplemental Opinion and Order in this consolidated “identical-in- substance” rulemaking which amends the Board’s underground injection control, municipal solid waste landfill, and hazardous waste regulations. This details changes the Board made in response to a request by the Joint Committee on Administrative Rules received after issuance of the Board’s January 5, 2005 opinion and order in this matter.	
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R06-22	<u>In the Matter of: NO_x Trading Program: Amendments to 35 Ill.</u> Adm. Code Part 217 – The Board accepted for hearing the Illinois Environmental Protection Agency’s (IEPA) January 19, 2006 proposal to amend the Board’s air pollution control regulations. The Board also granted of petitioner’s request to waive filing requirements, but directed the IEPA to file additional copies of certain documents.	4-0 R, Air
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R06-23	<u>In the Matter of: Standards and Requirements for Potable Water</u> <u>Well Surveys and for Community Relations Activities Performed in</u> <u>Conjunction with Agency Notices of Threats from Contamination</u> <u>Under PA 94-134: New 35 Ill. Adm. Code Part 1505 – The Board</u> accepted for hearing the Illinois Environmental Protection Agency’s (IEPA) January 20, 2006 proposal to amend the Board’s land pollution control regulations. The Board also granted of petitioner’s January 30, 2006 motion to refile the entire statement of reasons.	4-0 R, Land

ADJUSTED STANDARDS

AS 06-2	<u>In the Matter of: Petition of BP Products North America, Inc. for an Adjusted Standard Pursuant to 35 Ill. Adm. Code 721.122</u> – No action taken.	Air
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ADMINISTRATIVE CITATIONS

AC 05-54	<u>IEPA v. Logsdon Sand and Gravel and M.K. O'Hara Construction, Inc.</u> – In this administrative citation involving a Cass County site, the Board granted complainant's motion to dismiss respondent Logsdon Sand and Gravel and found that the remaining respondent M.K. O'Hara Construction, Inc. had violated Sections 21(p)(1), (p)(4) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(4), (p)(7) (2004)), and ordered respondent to pay a civil penalty of \$4,500.	4-0
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AC 06-21	<u>County of Jackson v. Dan Kimmel</u> – The Board accepted for hearing this petition for review of an administrative citation against this Jackson County respondent.	
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AC 06-22	<u>IEPA v. Harold Graves</u> – The Board accepted for hearing this petition for review of an administrative citation against this Shelby County respondent.	
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ADJUDICATORY CASES

Decisions

PCB 05-66	<u>People of the State of Illinois v. Petco Petroleum Corporation</u> – In this water enforcement action concerning a Fayette 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) (2004)), accepted a stipulation and settlement agreement as to , and ordered the respondents to pay a total civil penalty of \$135,000, and to cease and desist from further violations.	4-0 W-E
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PCB 05-215	<u>People of the State of Illinois v. First Rockford Group, Inc., Village</u>	4-0
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of Cherry Valley, and Schlichting & Sons Excavating, Inc. – In this public water supply enforcement action concerning a Winnebago 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) (2004)), accepted a stipulation and settlement agreement as to the Village of Cherry Valley (Cherry Valley), and ordered the Cherry Valley to pay a total civil penalty of \$14,500, and to cease and desist from further violations. The Board granted complainant's motion to consolidate this enforcement action with PCB 06-103.

PWS-E

PCB 06-103 People of the State of Illinois v. First Rockford Group, Inc. – The Board granted complainant's motion to consolidate this enforcement action with PCB 05-215. This will be reflected in the caption of future orders.

PCB 06-36 People of the State of Illinois v. Magellan Pipeline Company, L.P.
 – In this land enforcement action concerning a Lee 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) (2004)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$18,000, and to cease and desist from further violations.

4-0

L-E

Motions and Other Matters

PCB 97-193 People of the State of Illinois v. Community Landfill Company, Inc.;
PCB 04-207 People of the State of Illinois v. Edward Pruim and Robert Pruim – No action taken.
(cons.)

L-E

PCB 03-54	<u>Freedom Oil Company v. IEPA</u> – The Board took the following action in these consolidated petitions for review; denied Freedom Oil’s motion for default judgment or, alternatively, to bar Illinois Environmental Protection Agency (IEPA) evidence: denied the IEPA’s motion to strike Exhibit 17 of, and references to that exhibit in, Freedom Oil’s motion for summary judgment: granted Freedom Oil’s motion for summary judgment in part and denied it in part; and granted the IEPA’s counter-motion for summary judgment in part and denied it in part. The Board directed the parties to hearing on the remaining issues.	4-0
PCB 03-56		UST
PCB 03-105		Appeal
PCB 03-179		Johnson
PCB 04-2 (cons.)		concurrent
PCB 03-191	<u>People of the State of Illinois v. Community Landfill Company, Inc. and the City of Morris</u> – No action taken.	L-E
PCB 04-7	<u>People of the State of Illinois v. 4832 S. Vincennes, L.P. and Batteast Construction Company, Inc.</u> – No action taken.	A-E
PCB 04-47	<u>Saint-Gobain Containers, Inc. v. IEPA</u> – No action taken.	P-A, Air
PCB 04-137	<u>People of the State of Illinois v. Robinson Carbon, Inc.</u> – No action taken.	A-E
PCB 04-185	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – No action taken.	T-S Appeal
PCB 04-215	<u>Commonwealth Edison Company v. IEPA</u> – No action taken.	T-S Appeal
PCB 04-216	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – No action taken.	T-S Appeal
PCB 05-49	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – No action taken.	A&L-E

PCB 05-139	<u>People of the State of Illinois v. Bath Incorporated</u> – No action taken.	L-E
PCB 05-157	<u>Grand Pier Center L.L.C. American International Specialty Lines Insurance Co. as subbrogee of Grand Pier Center L.L.C. v. River East L.L.C., Chicago Dock and Canal Trust, Chicago Dock and Canal Company, Kerr-McGee Chemical L.L.C.</u> – No action taken.	Citizens L-E
PCB 05-193	<u>Vernon and Elaine Zohfeld v. Robert Drake, Wabash Valley Service Company, Michael J. Pfister, Noah D. Horton and Steve Kinder</u> – The Board denied respondents’ motion for stay of the proceedings. The Board also denied complainants’ motion to strike respondents’ reply to the response to the motion for stay.	4-0 Citizens A-E
PCB 05-204	<u>People of the State of Illinois v. Lake Street Development L.L.C.</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 Lake County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E, NPDES
PCB 06-15	<u>People of the State of Illinois v. Illinois-American Water Company</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this public water supply enforcement action involving a Will County facility, the Board ordered publication of the required newspaper notice.	4-0 PWS-E
PCB 06-42	<u>People of the State of Illinois v. Waste Management of Illinois, Inc.</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 Whiteside County facility, the Board ordered publication of the required newspaper notice.	4-0 L-E
PCB 06-46	<u>People of the State of Illinois v. Osborn Homes, Inc.</u> – The Board granted the parties’ joint motion to change name of respondent to Osborn Development Company.	4-0 L-E

PCB 06-51	<u>People of the State of Illinois v. CSX Transportation, Inc.</u> – No action taken.	A, L&W
PCB 06-53	<u>C&F Packing Company, Inc. v. IEPA and Lake County</u> – No action taken.	W-V
PCB 06-56	<u>Midwest Generation, L.L.C., Crawford Generating Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-57	<u>Midwest Generation, L.L.C., Fisk Generating Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-58	<u>Midwest Generation, L.L.C., Joliet Generating Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-59	<u>Midwest Generation, L.L.C., Powerton Generating Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-60	<u>Midwest Generation, L.L.C., Will County Generating Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-61	<u>Southern Illinois Power Cooperative v. IEPA</u> – No action taken.	P-A, Air
PCB 06-62	<u>Kincaid Generation, L.L.C. v. IEPA</u> – No action taken.	P-A, Air

PCB 06-63	<u>Dynegy Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA</u> – No action taken.	P-A, Air
PCB 06-64	<u>Ameren Energy Generating Company, Coffeen Power Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-65	<u>Electric Energy, Incorporated v. IEPA</u> – No action taken.	P-A, Air
PCB 06-66	<u>AmerenEnergy Resources Generating Company, Duck Creek Power Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-67	<u>AmerenEnergy Resources Generating Company, Edwards Power Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-68	<u>Ameren Energy Generating Company, Newton Power Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-69	<u>Ameren Energy Generating Company, Meredosia Power Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-70	<u>Ameren Energy Generating Company, Hutsonville Power Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-71	<u>Dynegy Midwest Generation, Inc. (Havana Power Station) v. IEPA</u> – No action taken.	P-A, Air
PCB 06-72	<u>Dynegy Midwest Generation, Inc. (Hennepin Power Station) v. IEPA</u> – No action taken.	P-A, Air

PCB 06-73	<u>Dynegy Midwest Generation, Inc. (Vermilion Power Station) v. IEPA</u> – No action taken.	P-A, Air
PCB 06-74	<u>Dynegy Midwest Generation, Inc. (Wood River Power Station) v. IEPA</u> – No action taken.	P-A, Air
PCB 06-75	<u>The City of Springfield v. IEPA</u> – No action taken.	P-A, Air
PCB 06-82	<u>People of the State of Illinois v. Barger Engineering, Inc.</u> – No action taken.	W-E
PCB 06-111	<u>Marathon Ashland Petroleum, L.L.C. (Reformulated Gasoline – Blending Process) (Property Identification No. 51-34-1-21 or portion thereof) v. IEPA</u> – Because the Board did not receive any petition for review of the Illinois Environmental Protection Agency’s (IEPA) recommendation to deny certification, consistent with the IEPA recommendation, the Board declined to certify that certain Marathon Ashland Petroleum, L.L.C. facilities are pollution control facilities and dismissed this matter.	4-0 T-C
PCB 06-112	<u>Marathon Ashland Petroleum, L.L.C. (Amine Expansion, Kerosene Treater, Crude Blending and Merichem Treater Revamp) (Property Identification No. 51-34-1-21 or portion thereof) v. IEPA</u> – Because the Board did not receive any petition for review of the Illinois Environmental Protection Agency’s (IEPA) recommendation to deny certification, consistent with the IEPA’s recommendation, the Board declined to certify that certain Marathon Ashland Petroleum, L.L.C. facilities are pollution control facilities and dismissed this matter.	4-0 T-C

PCB 06-113	<u>Marathon Ashland Petroleum, L.L.C. (Reverse Osmosis Degasifier Unit) (Property Identification Number 51-34-1-21 or portion thereof) v. IEPA</u> – Because the Board did not receive any petition for review of the Agency’s recommendation to deny certification, consistent with the Agency’s recommendation, the Board declined to certify that certain Marathon Ashland Petroleum, L.L.C. facilities are pollution control facilities and dismissed this matter.	4-0 T-C
PCB 06-114	<u>Marathon Ashland Petroleum, L.L.C. (Cooling Water Tower Automation and Control) (Property Identification Number 51-34-1-21 or portion thereof) v. IEPA</u> – Because the Board did not receive any petition for review of the Illinois Environmental Protection Agency’s (IEPA) recommendation to deny certification, consistent with the IEPA’s recommendation, the Board declined to certify that certain Marathon Ashland Petroleum, L.L.C. facilities are pollution control facilities and dismissed this matter.	4-0 T-C
PCB 06-124 PCB 06-127 (cons.)	<u>Prairie Rivers Network and Sierra Club v. IEPA and Prairie State Generating Company, L.L.C.; American Bottom Conservancy and Dale Wojtkowski v. IEPA and Prairie State Generating Company, L.L.C.</u> – The Board granted W.C. Blanton and Alison Nelson leave to appear <i>pro hac vice</i> on behalf of the respondent generating company.	4-0 P-A, Water
PCB 06-131	<u>Wesley Brazas, Jr. v. Mr. Jeff Magnussen, President Village of Hampshire and IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies postmarked on or before February 17, 2006, or the matter would subject to dismissal.	4-0 P-A, NPDES
PCB 06-132	<u>People of the State of Illinois v. Lake Pointe Estates L.L.C.</u> – The Board accepted for hearing this land enforcement action involving a site located in Sangamon County.	4-0 L-E

PCB 06-133	<u>People of the State of Illinois v. City of Flora</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land and water enforcement action involving a Clay County facility, the Board ordered publication of the required newspaper notice.	4-0 L, W-E
PCB 06-134	<u>People of the State of Illinois v. Village of Hainesville</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this public water supply enforcement action involving a Lake County facility, the Board ordered publication of the required newspaper notice.	4-0 PWS-E

CASES PENDING DECISION

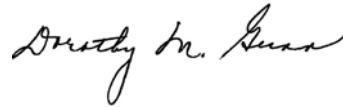
R04-21	<u>In the Matter of: Revisions to Radium Water Quality Standards: Proposed New 35 Ill. Adm. Code 302.307 and Amendments to 35 Ill. Adm. Code 302.207 and 302.525</u> – Adopted Rule, Final Order, Opinion and Order	R, Water
R04-22 R04-23 (cons.)	<u>In the Matter of: Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (Proposed New 35 Ill. Adm. Code 734)</u> – Adopted Rule, Final Order, Opinion and Order	R, Land

OTHER ITEMS

ADJOURNMENT

Moved and seconded, by a vote of 4-0, Chairman Girard adjourned the meeting at 11:30 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on February 16, 2006, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board