

# ILLINOIS POLLUTION CONTROL BOARD

## MEETING MINUTES

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**MARCH 16, 2006 CHICAGO OFFICE**  
**100 W. Randolph Street**  
**Conference Room 9-040**  
**11:00 A.M.**

### **ANNOUNCEMENTS**

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Chairman Girard welcomed members of the public and staff.

### **ROLL CALL**

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

### **APPROVAL OF MINUTES**

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Minutes of the March 2, 2006 meeting were approved by a vote of 4-0.

### **RULEMAKINGS**

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<b>R06-22</b>	<u>In the Matter of: NO<sub>x</sub> Trading Program: Amendments to 35 Ill. Adm. Code Part 217</u> – The Board granted petitioner’s February 21, 2006 motion to supplement the rulemaking proposal. No action was taken on the motion for expedited review filed by the Illinois Environmental Regulatory Group on March 13, 2006.	4-0 R, Air
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**R06-25**      In the Matter of: Proposed New 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury) – The Board accepted for hearing petitioner’s March 14, 2006 proposal to amend the Board’s air pollution control regulations. The Board granted petitioner’s motions to waive copy requirements. The Board denied in part petitioner’s motion to hold the required hearings in Springfield. The Board will hold at least one hearing in the Chicago area and per the Agency’s request the first hearing will be scheduled in Chicago. The Board took no action on the motions filed March 15, 2006.      4-0  
R, Air

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**ADJUSTED STANDARDS**

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None

**ADMINISTRATIVE CITATIONS**

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**AC 04-75**      IEPA v. Charles L. Parker – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1), (p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2004)), and ordered respondent to pay a civil penalty of \$4,500. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent. Respondent may respond to the cost statement within 14 days of service.      4-0

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**AC 05-8**      IEPA v. Ted Harrison and Gerald S. Gill – No action taken.

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**AC 05-18**      IEPA v. William Shrum – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1) and (p)(4) of the Act (415 ILCS 5/21(p)(1), (p)(4) (2004)) and assessing a penalty of \$4,500. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent. Respondent may respond to the cost statement within 14 days of service.      4-0

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<b>AC 05-33</b>	<u>IEPA v. Leo and Debra Harn</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a McDonough County facility, the Board found that respondent Leo Harn had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2004)) and ordered respondent to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss the petition for review and the alleged violation of 415 ILCS 5/21(p) (7) (2004). The Board also amended the caption to reflect Leo Harn’s status as the only remaining respondent in this action following Debra’s death.	4-0
<b>AC 05-63</b>	<u>IEPA v. John R. Malloch</u> – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1), (p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2004)), and ordered respondent to pay a civil penalty of \$4,500. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent. Respondent may respond to the cost statement within 14 days of service.	4-0
<b>AC 06-21</b>	<u>County of Jackson v. Dan Kimmel</u> – The Board accepted for hearing this amended petition for review of an administrative citation against this Jackson County respondent.	4-0
<b>AC 06-22</b>	<u>IEPA v. Harold Graves</u> – The Board accepted for hearing this petition for review of an administrative citation against this Shelby County respondent.	4-0
<b>AC 06-23</b>	<u>IEPA v. Harold Graves</u> – The Board accepted for hearing this petition for review of an administrative citation against this Shelby County respondent.	4-0
<b>AC 06-27</b>	<u>County of LaSalle v. Jerry Koetz</u> – The Board accepted an administrative citation against this LaSalle County respondent.	
<b>AC 06-28</b>	<u>County of Macon, Illinois v. Onyx Valley View Landfill</u> – The Board accepted an administrative citation against this Macon County respondent.	

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**AC 06-29**      County of Macon, Illinois v. Onyx Valley View Landfill – The Board accepted an administrative citation against this Macon County respondent.

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**ADJUDICATORY CASES**

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Decisions

**PCB 05-204**      People of the State of Illinois v. Lake Street Development, L.L.C. – 4-0  
In this water enforcement action concerning a Lake County facility, W-E  
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 respondent to pay a total civil penalty of \$25,000, and  
to cease and desist from further violations.

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**PCB 06-15**      People of the State of Illinois v. Illinois-American Water Company 4-0  
– In this public water supply enforcement action concerning a Will PWS-E  
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 respondent to pay a total  
civil penalty of \$7,500, and to cease and desist from further  
violations. Illinois-American Water Company was also ordered to  
pay a cash contribution in the amount of \$5,000 to the Village of  
Homer Glen, for use in constructing an off-road multi-use trail  
system and trailhead, to perform an environmental compliance  
audit valued at \$5,000 at one of its facilities in the Chicago  
Metropolitan area and submit the results to the complainant as a  
supplemental environmental projects.

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<b>PCB 06-134</b>	<u>People of the State of Illinois v. Village of Hainesville</u> – In this public water supply enforcement action concerning a Lake 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 respondent to pay a total civil penalty of \$3,000, and to cease and desist from further violations.	4-0 PWS-E
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*Motions and Other Matters*

<b>PCB 96-98</b>	<u>People of the State of Illinois v. Skokie Valley Asphalt, Co., Inc., Edwin L. Frederick, Jr. individually and as owner and President of Skokie Valley Asphalt Co., Inc., and Richard J. Frederick individually and as owner and Vice President of Skokie Asphalt Co., Inc.</u> – No action taken.	W-E
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<b>PCB 97-193</b> <b>PCB 04-207</b> <b>(cons.)</b>	<u>People of the State of Illinois v. Community Landfill Company, Inc.; People of the State of Illinois v. Edward Pruim and Robert Pruim</u> – No action taken.	L-E
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<b>PCB 03-1</b>	<u>Illinois State Toll Highway Authority v. IEPA</u> – The Board granted this DeKalb County facility’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
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<b>PCB 04-7</b>	<u>People of the State of Illinois v. 4832 S. Vincennes, L.P. and Batteast Construction Company, Inc.</u> – In this air 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) (2004)), accepted a stipulation and settlement agreement as to the Batteast Construction Company (Batteast), and ordered Batteast to pay a total civil penalty of \$1,500, and to cease and desist from further violations. The Board also denied the complainant’s motion for summary judgment against respondent 4832 S. Vincennes, L.P., an Illinois limited partnership and directed the remaining parties to proceed to hearing.	3-1 Moore dissented A-E
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<b>PCB 04-106</b>	<u>People of the State of Illinois v. Thomas Gray</u> – No action taken.	L-E
<b>PCB 04-185</b>	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – No action taken.	T-S Appeal
<b>PCB 04-215</b>	<u>Commonwealth Edison Company v. IEPA</u> – No action taken.	T-S Appeal
<b>PCB 04-216</b>	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – No action taken.	T-S Appeal
<b>PCB 05-51</b>	<u>People of the State of Illinois v. Randy Oldenberger d/b/a Environmental Health &amp; Safety Services</u> – No action taken.	A-E
<b>PCB 05-139</b>	<u>People of the State of Illinois v. Bath Incorporated</u> – No action taken.	L-E
<b>PCB 05-157</b>	<u>Grand Pier Center L.L.C. American International Specialty Lines Insurance Co. as subrogee 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
<b>PCB 05-193</b>	<u>Vernon and Elaine Zohfield v. Bob Drake, Wabash Valley Service Company, Michael J. Pfister, Noah D. Horton, and Steve Kinder</u> – No action taken.	Citizens A-E
<b>PCB 05-220</b>	<u>Kenneth E. Medema, Jr. v. TNT Logistics North America</u> – The Board granted complainant’s motion for leave to file an amended complaint. The amended complaint is due on or before April 17, 2006. The Board denied as moot complainant’s February 10, 2006 motion that the hearing officer provide an expedited ruling on the motion for leave to amend the complaint <i>instanter</i> . In addition, to allow the response time to expire, the Board reserved ruling on respondent’s February 28, 2006 motion to include communications.	4-0 Citizens N-E

<b>PCB 06-1</b>	<u>Robert F. Kassela, Jr. and Kellie R. Kassela v. TNT Logistics North America</u> - The Board granted complainants' motion for leave to file an amended complaint. The amended complaint is due on or before April 17, 2006. The Board denied as moot complainants' February 10, 2006 motion that the hearing officer provide an expedited ruling on the motion for leave to amend the complaint <i>instanter</i> . In addition, to allow the response time to expire, the Board reserved ruling on respondent's February 28, 2006 motion to include communications.	4-0 Citizens N-E
<b>PCB 06-49</b>	<u>People of the State of Illinois v. Premier Waste &amp; Recycling, 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 Cook County facility, the Board ordered publication of the required newspaper notice.	4-0 L-E
<b>PCB 06-53</b>	<u>C&amp;F Packing Company, Inc. v. IEPA and Lake County</u> – No action taken.	W-V
<b>PCB 06-76</b>	<u>Gateway FS, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Monroe County facility.	4-0 UST Appeal
<b>PCB 06-82</b>	<u>People of the State of Illinois v. Barger Engineering, Inc.</u> – The Board denied respondent's motion for dismissal of this air enforcement action involving a White County facility.	4-0 W-E
<b>PCB 06-85</b>	<u>Prosize Oil Company (#922355) 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 Jefferson County facility.	4-0 UST Appeal
<b>PCB 06-86</b>	<u>Prosize Oil Company (#982486) 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 Jefferson County facility.	4-0 UST Appeal

<b>PCB 06-87</b>	<u>Wayne &amp; Dennis Swanson 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 Kane County facility.	4-0 UST Appeal
<b>PCB 06-88</b>	<u>Biggs Brothers Service Center v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a St. Clair County facility.	4-0 UST Appeal
<b>PCB 06-137</b>	<u>City of Springfield, Illinois v. IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies, noting that the filing of an amended petition would restart the decision time clock. The Board granted petitioner’s motion to incorporate the records of prior Board proceedings.	4-0 PWS-V
<b>PCB 06-141</b>	<u>Flagg Creek Water Reclamation District v. Village of Hinsdale, Metropolitan Water Reclamation District of Greater Chicago, Illinois Department of Transportation, and DuPage County</u> – No action taken.	W-E
<b>PCB 06-142</b>	<u>Magie Bros./Penreco v. IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies, accompanied by an attorney’s appearance on or before April 10, 2006, or the petition would be subject to dismissal.	4-0 P-A, NPDES
<b>PCB 06-143</b>	<u>People of the State of Illinois v. Astec Mobile Screens, Inc.</u> – The Board accepted for hearing this Resource Conservation and Recovery Act enforcement action involving a site located in Whiteside County.	4-0 RCRA-E
<b>PCB 06-144</b>	<u>People of the State of Illinois v. Golden Bag Company</u> – The Board accepted for hearing this air enforcement action involving a site located in Kane County.	4-0 A-E
<b>PCB 06-145</b>	<u>Arlyn D. Fisk d/b/a Arlyn Fisk’s Service Center v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Randolph County facility.	4-0 UST Appeal



**PCB 06-146**      Midwest Generation, L.L.C., Waukegan Generating Station v. IEPA – The Board accepted for hearing this permit appeal involving a Lake County facility.      4-0  
P-A, Air

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## CASES PENDING DECISION

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<b>R06-16</b>	<u>In the Matter of: UIC Corrections, USEPA Amendments (July 1, 2005 through December 31, 2005; In the Matter of: RCRA Subtitle D Update, USEPA Amendments (July 1, 2005 through December 31, 2005 and August 1, 2005); In the Matter of: RCRA Subtitle C Update, USEPA Amendments (July 1, 2005 through December 31, 2005 and August 1, 2005) – Proposed Rule, Proposal for Public Comment, Opinion and Order</u>	R, Land
<b>R06-17</b>		
<b>R06-18</b> (cons.)		

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<b>AS 06-1</b>	<u>In the Matter of: Petition of Lafarge Midwest, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 739.161 Pursuant to 35 Ill. Adm. Code 720.132 and 720.133</u>	Air
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## OTHER ITEMS

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### ADJOURNMENT

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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 April 6, 2006, by a vote of.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board