

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



April 6, 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 March 16, 2006 meeting were approved by a vote of 4-0.

RULEMAKINGS

R06-16	<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) – The Board adopted a proposal for public comment in this consolidated “identical-in-substance” rulemaking to amend the Board’s underground injection control, municipal solid waste landfill, and hazardous waste regulations.</u>	4-0
R06-17		R, Land
R06-18		
(cons.)		

R06-19	<u>In the Matter of: Clean Construction or Demolition Debris Fill Operations Under P.A. 94-272 (35 Ill. Adm. Code Part 1100) – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s land pollution control regulations.</u>	4-0 R, Land
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R06-22	<u>In the Matter of: NO_x Trading Program: Amendments to 35 Ill. Adm. Code Part 217 – No action taken.</u>	R, Air
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R06-25	<u>In the Matter of: Proposed New 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury) – No action taken.</u>	R, Air
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ADJUSTED STANDARDS

AS 06-3	<u>In the Matter of: Petition of Lafarge Midwest, Inc. for Boiler Determination through Adjusted Standard Proceedings Pursuant to 35 Ill. Adm. Code 720.132 and 720.133 – Pending receipt of the certificate of publication, the Board held this Massac County facility’s petition for an adjusted standard from the Board’s hazardous waste operating requirements.</u>	Air
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ADMINISTRATIVE CITATIONS

AC 05-8 IEPA v. Ted Harrison and Gerald S. Gill – The Board denied respondent Harrison’s motion for summary judgment, and directed the case proceed to hearing. 4-0

AC 06-20 IEPA v. Georgia Shank and Steve Shank – The Board, with regard solely to Georgia Shank, accepted the March 20, 2006 petition for hearing. As to Georgia Shank, the Board denied the March 27, 2006 motion to dismiss as untimely. Because Steve Shank failed to contest the administrative citation by filing a timely petition for review, and because the Board has found that Steve Shank committed the violations alleged in the citation, the Board cannot consider the March 27, 2006 motion to dismiss with regard to him. The Board therefore found that Steve Shank violated sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2004)), but will not assess the statutory penalties against him until the Board makes a final decision concerning Georgia Shank. 4-0

AC 06-24 IEPA v. City of Freeport and Ryan Wilson – The Board found that these Stephenson County respondents violated Section 21(o)(7) and (o)(9) of the Act (415 ILCS 5/21(o)(7), (o)(9) (2004)), and ordered respondents to pay a civil penalty of \$1,000. 4-0

AC 06-25 County of Perry v. Ida Haberman – The Board found that this Perry County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)), and ordered respondent to pay a civil penalty of \$1,500. 4-0

AC 06-30 IEPA v. Rick Linnabury – The Board accepted an administrative citation against this Douglas County respondent.

AC 06-31 Ogle County Solid Waste Management Department v. Wayne L. Fisher & Christina C. Fisher – The Board accepted an administrative citation against these Ogle County respondents.

AC 06-32 County of Jackson v. David Skidmore - The Board accepted an administrative citation against this Jackson County respondent.

AC 06-33 IEPA v. Johnny Kemper d/b/a Kemper Tree Service and Johnny Kemper - The Board accepted an administrative citation against these Edgar County respondents.

AC 06-34 IEPA v. Clifford Lawson - The Board accepted an administrative citation against this Macoupin County respondent.

AC 06-35 IEPA v. Jerry L. Watson - The Board accepted an administrative citation against this Williamson County respondent.

AC 06-36 IEPA v. Robert J. Kerker and Dale Kerker d/b/a Kerker Construction - The Board accepted an administrative citation against these Schuyler County respondents.

ADJUDICATORY CASES

Decisions

PCB 04-134 People of the State of Illinois v. Interstate Brands Corporation – 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, and ordered the respondent to pay a total civil penalty of \$90,000, and to cease and desist from further violations. 4-0
A-E

PCB 05-91 People of the State of Illinois v. Clean Harbor Services, Inc. – 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, and ordered the respondent to pay a total civil penalty of \$95,000, and to cease and desist from further violations. 4-0
A-E

PCB 06-45 People of the State of Illinois v. Ecolab, Inc. and Charles A. Winslett – In this land and water enforcement action concerning a Tazewell 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 \$2,500, and to cease and desist from further violations. Respondents was also ordered to engage in a supplemental environmental project, which consists of the cash payment of \$10,000 for the restoration of a park and playground in South Pekin that was severely damaged by a tornado in May 2004. 4-0
L&W-E

PCB 06-48 People of the State of Illinois v. STS Consultants, Ltd. – In this public water supply enforcement action concerning a Will 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 \$5,000, and to cease and desist from further violations. 4-0
PWS-E

Motions and Other Matters

PCB 90-215 Spraying Systems Co. v. IEPA – The Board granted this DuPage County facility’s motion for voluntary dismissal of this underground storage tank appeal. 4-0
P-A,
RCRA

PCB 96-98	<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
PCB 97-193 PCB 04-207 (cons.)	<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
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 04-106	<u>People of the State of Illinois v. Thomas Gray</u> – No action taken.	L-E
PCB 04-185	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – The Board granted petitioner’s motion to stay this trade secret appeal in part. Specifically, PCB 04-185 is stayed for 120 days (<i>i.e.</i> , until August 4, 2006), unless the Board issues an order terminating the stay earlier.	4-0 T-S Appeal
PCB 04-215	<u>Commonwealth Edison Company v. IEPA</u> – The Board granted petitioner’s motion to stay this trade secret appeal in part. Specifically, PCB 04-215 is stayed for 120 days (<i>i.e.</i> , until August 4, 2006), unless the Board issues an order terminating the stay earlier.	4-0 T-S Appeal
PCB 04-216	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – The Board granted petitioner’s motion to stay this trade secret appeal in part. Specifically, PCB 04-216 is stayed for 120 days (<i>i.e.</i> , until August 4, 2006), unless the Board issues an order terminating the stay earlier.	4-0 T-S Appeal

PCB 05-51	<u>People of the State of Illinois v. Randy Oldenberger d/b/a Environmental Health & Safety Services</u> – The Board granted respondent’s motion for extension of time to file an amended response and accepted the amended response to the request to admit facts. The Board denied complainant’s motion to deem facts admitted and directed the hearing officer to proceed expeditiously to hearing.	4-0 A-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 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
PCB 05-168	<u>People of the State of Illinois v. Home Depot U.S.A., Inc.</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 05-193	<u>Vernon and Elaine Zohfield v. Bob Drake, Wabash Valley Service Company, Michael J. Pfister, Noah D. Horton, and Steve Kinder</u> – The Board granted the respondents' motion for clarification and stated that, if it had intended to reverse any of its previous opinions or orders in its February 2, 2006 order, it would have done so explicitly.	Citizens A-E
PCB 05-220	<u>Kenneth E. Medema, Jr. v. TNT Logistics North America</u> – The Board granted complainant’s motion for voluntary dismissal of this citizen noise enforcement involving a Will County facility.	4-0 Citizens N-E

PCB 06-1	<u>Robert F. Kassela, Jr. and Kellie R. Kassela v. TNT Logistics North America</u> - The Board granted complainants' motion for voluntary dismissal of this citizen noise enforcement involving a Will County facility.	4-0 Citizens N-E
PCB 06-25	<u>William Breuer v. IEPA</u> – The Board granted this Washington County facility's motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
PCB 06-53	<u>C&F Packing Company, Inc. v. IEPA and Lake County</u> – – No action taken.	W-V
PCB 06-84	<u>Cowden Oil 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 Shelby County facility.	4-0 UST Appeal
PCB 06-89	<u>Maryville Voice Newspaper Co. 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 Madison County facility.	4-0 UST Appeal
PCB 06-90	<u>People of the State of Illinois v. Village of Volo and Smith Engineering Consultants, Inc.</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
PCB 06-118	<u>Mahr's Sales & Service 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 Fulton County facility.	4-0 UST Appeal

PCB 06-124	<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>	4-0 P-A, Water, Third Party
PCB 06-127	– The Board granted petitioners’ motions for voluntary dismissal of these consolidated permit appeals involving a site located in Washington County.	
PCB 06-139	<u>Richard Gooden v. IEPA</u> – The Board granted this Ford County facility’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
PCB 06-141	<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> – The Board held for a later duplicative/frivolous determination this water enforcement action involving a DuPage County facility.	W-E
PCB 06-142	<u>Magie Bros./Penreco v. IEPA</u> – The Board granted this Cook County facility’s motion for voluntary dismissal of this permit appeal.	4-0 P-A, NPDES
PCB 06-147	<u>City of Kankakee 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 Kankakee County facility.	4-0 UST Appeal 90-Day Ext.
PCB 06-148	<u>Caterpillar Logistics, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Tazewell County facility.	4-0 P-A, Air

PCB 06-149	<u>Kraft Foods 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 McHenry County facility.	4-0 UST Appeal 90-Day Ext.
PCB 06-150	<u>People of the State of Illinois v. Stoecker Farms, Inc.</u> – The Board accepted for hearing this water enforcement action involving a site located in Macoupin County.	4-0 W-E
PCB 06-151	<u>People of the State of Illinois v. Big River Zinc Corporation and Allied Waste Transportation, Inc. d/b/a Midwest Waste</u> – The Board accepted for hearing this land enforcement action involving a site located in St. Clair County.	4-0 L-E
PCB 06-152	<u>James Chew and Lynn Chew v. Dirk F. Borgsmiller and Sports Blast, L.L.C.</u> – The Board held for a later duplicative/frivolous determination this citizens’ noise enforcement action involving a Jackson County facility.	Citizens N-E

CASES PENDING DECISION

AS 06-1	<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

The Board granted the Chairman’s motion for approval of Calendar Year 2007 Board Meeting Locations and Dates as listed below:

Regular Board Meeting Schedule for Calendar Year 2007

January 4 *	July 12*
January 18	July 26
February 1 *	August 9 **
February 15	August 23
March 1 **	September 6 *
March 15	September 20
April 5 *	October 4 **
April 19	October 18
May 3 **	November 1 *
May 17	November 15
June 7 *	December 6 *
June 21	December 20

Unless otherwise noted below, Board meetings will be held at the James R. Thompson Center, 100 W. Randolph Street, Chicago. Exact room locations will be provided later.

- * The Board meetings will be via videoconference both in Chicago, 100 W. Randolph Street, Videoconference Room 11-512, and Springfield, 1021 N. Grand Avenue East, Oliver Holmes Conference Room 2012 N, Second Floor**
- ** The Board meetings will be held in the Board's Springfield Office, 1021 N. Grand Avenue East, Conference Room 1244 N, First Floor**

ADJOURNMENT

Moved and seconded, by a vote of 4-0, Chairman Girard adjourned the meeting at 11:40 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on April 20, 2006, by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board