

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



MAY 18, 2006 CHICAGO OFFICE
100 W. Randolph Street
Conference Room 9-040
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 May 4, 2006 meeting were approved by a vote of 4-0.

RULEMAKINGS

- | | | |
|---------------|--|----------------|
| R06-12 | <u>In the Matter of: UST Update, USEPA Regulations (July 1, 2005 through December 31, 2005)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its exemptions from the definition of underground storage tank during the update period of July 1, 2005 through December 31, 2005.. | 4-0
R, Land |
| R06-14 | <u>In the Matter of: Exemptions from the Definition of VOM Update, USEPA Regulations (July 1, 2005 through December 31, 2005)</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its volatile organic material emission regulations during the update period of July 1, 2005 through December 31, 2005. | 4-0
R, Air |
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ADJUSTED STANDARDS

None

ADMINISTRATIVE CITATIONS

AC 04-75	<u>IEPA v. Charles L. Parker</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$309.49 and a civil penalty of \$4,500. This order follows the Board's interim order of March 16, 2006, which found that this respondent had violated Sections 21(p)(1), (3) and (7) of the Environmental Protection Act. (415 ILCS 5/21(p)(1), (3), and (7) (2004)).	4-0
AC 05-18	<u>IEPA v. William Shrum</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$306.88 and a civil penalty of \$4,500, \$3,000 for a second violation of Section 21(p)(1), and \$1,500 for the first violation of Section 21(p)(7). This order follows the Board's interim order of March 16, 2006, which found that this respondent had violated Sections 21(p)(1) and (7) of the Environmental Protection Act. (415 ILCS 5/21(p)(1), (7) (2004)).	4-0
AC 05-63	<u>IEPA v. John Malloch</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$289.70 and a civil penalty of \$4,500. This order follows the Board's interim order of March 16, 2006, which found that this respondent had violated Sections 21(p)(1), (3) and (7) of the Environmental Protection Act. (415 ILCS 5/21(p)(1), (3), and (7) (2004)).	4-0
AC 05-80	<u>County of Kankakee v. John and Ella Hall and South Holland Trust #10897</u> – The Board denied complainant's untimely motion to the amend complaint, since this docket was closed December 1, 2005.	4-0
AC 06-31	<u>Ogle County Solid Waste Management Department v. Wayne L.</u>	4-0

Fisher & Christina C. Fisher – The Board directed respondent to file an amended petition for review specifying the grounds for appeal within 30 days, or the Board will dismiss this matter.

AC 06-33 IEPA v. Johnny Kemper d/b/a Kemper Tree Services and Johnny Kemper – The Board accepted for hearing this petition for review of an administrative citation against these Edgar County respondents. 4-0

AC 06-35 IEPA v. Jerry L. Watson – The Board directed respondent to file an amended petition for review specifying the grounds for appeal within 30 days, or the Board will dismiss this matter. 4-0

AC 06-36 IEPA v. Robert J. Kerker and Dale Kerker d/b/a Kerker Construction – The Board found that these Schuyler County respondents 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 respondents to pay a civil penalty of \$4,500. 4-0

AC 06-37 County of Jackson v. James Qualls – The Board found that this Jackson County respondent violated Section 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2004)). Because there are two violations of Section 21(p) and these violations are subsequent offenses, respondent was ordered to pay a civil penalty of \$6,000. 4-0

AC 06-38 County of Wayne v. Mr. William Slane – The Board accepted an administrative citation against this Wayne County respondent.

AC 06-39 City of Chicago Department of Environment v. Speedy Gonzalez Landscaping, Inc. – The Board accepted an administrative citation against this Cook County respondent.

AC 06-40 City of Chicago Department of Environment v. Jose R. Gonzalez – The Board accepted an administrative citation against this Cook County respondent.

AC 06-41 City of Chicago Department of Environment v. 1601-1759 East 130th Street, L.L.C. – The Board accepted an administrative citation against this Cook County respondent.

AC 06-42 County of LaSalle v. Bill Shawback – The Board accepted an administrative citation against this LaSalle County respondent.

AC 06-43 County of LaSalle v. Bill Shawback – The Board accepted an administrative citation against this LaSalle County respondent.

ADJUDICATORY CASES

Decisions

None

Motions and Other Matters

PCB 96-98 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. – No action taken. W-E

PCB 97-97 OK Service Center, Ltd. v. IEPA – The Board granted this Cook County facility’s motion for voluntary dismissal of this underground storage tank appeal. 4-0
UST
Appeal

PCB 97-112 OK Service Center, Ltd. v. IEPA - The Board granted this Cook County facility’s motion for voluntary dismissal of this underground storage tank appeal. 4-0
UST
Appeal

PCB 00-104	<u>People of the State of Illinois v. The Highlands, L.L.C., Murphy Farms, Inc. a/k/a Murphy Family Farms, and Bion Technologies, Inc.</u> – No action taken.	A-E
PCB 03-183	<u>People of the State of Illinois v. Passavant Area Hospital</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a Morgan County facility, the Board ordered publication of the required newspaper notice.	4-0 A-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 03-215	<u>People of the State of Illinois v. Huck Store Fixture Co., Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving an Adams County facility, the Board ordered publication of the required newspaper notice.	4-0 A-E
PCB 04-31 PCB 05-43 (cons.)	<u>Broadus Oil v. IEPA</u> – No action taken.	UST Fund
PCB 05-139	<u>People of the State of Illinois v. Bath Incorporated</u> – The Board granted complainant’s motion for summary judgment and ordered respondent to reimburse the Illinois Environmental Protection Agency for response action costs in the amount of \$2,838,368.53 and to pay \$8,515,105.59 in punitive damages.	4-0 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, and Tronox L.L.C., f/k/a Kerr-McGee Chemical L.L.C.</u> – The Board granted the motion of respondent/counter-complainant Tronox L.L.C., f/k/a Kerr-McGee Chemical L.L.C., to withdraw its summary judgment and to motion amend the caption as directed here.	4-0 Citizens L-E

PCB 05-180	<u>People of the State of Illinois v. ACI Environmental Corporation and Asbestos Control, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action involving a DuPage County facility, the Board ordered publication of the required newspaper notice.	4-0 A-E
PCB 06-2	<u>People of the State of Illinois v. Laidlaw Corporation</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 Massac County facility, the Board ordered publication of the required newspaper notice.	4-0 L-E
PCB 06-33	<u>People of the State of Illinois v. J&S Companies, Inc. and First Choice Construction, Inc.</u> – No action taken.	L-E
PCB 06-51	<u>People of the State of Illinois v. CSX Transportation, Inc.</u> – No action taken.	A,L,&W-E
PCB 06-53	<u>C&F Packing Company, Inc. v. IEPA and Lake County</u> – No action taken, as the hearing officer granted the motion to withdraw motion to strike affirmative defenses on May 17, 2006.	W-V
PCB 06-130 PCB 06-145	<u>Arlyn D. Fisk d/b/a Arlyn Fisk’s Service Center v. IEPA</u> – The Board granted petitioner’s motion to consolidate PCB 06-130 and PCB 06-145 for purposes of hearing.	4-0 UST Appeal
PCB 06-135	<u>Environmental Protection Industries, Inc. v. IEPA</u> – The Board dismissed this underground storage tank appeal for petitioner’s failure to file an amended petition for review as ordered on February 16, 2006.	3-0 Melas abstained 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> – No action taken. Board Member Melas will be recusing himself from this matter.	W-E
PCB 06-143	<u>People of the State of Illinois v. Astec Mobile Screens, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this Resources Conservation Recovery Act enforcement action involving a Whiteside County facility, the Board ordered publication of the required newspaper notice.	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 found that the alleged violations were neither duplicative nor frivolous and accepted for hearing this matter involving a Jackson County site.	4-0 Citizens N-E
PCB 06-156	<u>Midwest Generation, L.L.C., Will County Generating Station v. IEPA</u> – No action taken.	P-A, Air
PCB 06-160	<u>People of the State of Illinois v. Matrix National Investment Corp.</u> – The Board accepted for hearing this water enforcement action involving a site located in Jo Daviess County.	4-0 W-E
PCB 06-161	<u>Bill, Pat, and Brad Walk (Property Identification Number 2127-02-00-300-004) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Bill, Pat, and Brad Walk located in Shelby County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C

PCB 06-162	<u>C&B Farms-Kingston (Property Identification Number 05-02-300-007) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of C&B Farms-Kingston located in DeKalb County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C
PCB 06-163	<u>The Theodore Kosloff Trust (as formed by the Irrevocable Agreement of Trust of Theodore Kosloff, dated December 6, 1989, for Rachel Kosloff and Abigail Kosloff, a Pennsylvania trust) v. A&B Wireform Corporation</u> – No action taken.	Citizens L-E
PCB 06-164	<u>Village of Caseyville, Illinois v. IEPA</u> – The Board accepted for hearing this permit appeal involving a St. Clair County facility.	4-0 P-A, Water
PCB 06-165	<u>The Andersons Agriservices, Inc.-Champaign (Property Identification Number 12-14-29-400-004) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Andersons Agriservices, Inc. located in Champaign County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C
PCB 06-166	<u>Wabash Valley Service Company-McLeansboro (Property Identification Numbers 07-044-001-00 and 11-025-005-10) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Wabash Valley Service Company-McLeansboro located in Hamilton County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C

PCB 06-167	<u>Sheffey Farms, Inc. (Pearl City Facility) (Property Identification Number 89-17-10-100-004) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Sheffey Farms, Inc. (Pearl City Facility) located in Stephenson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C
PCB 06-168	<u>Larry Wernsing (Raymond Facility) (Property Identification Number 13-000-148-00) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Larry Wernsing (Raymond Facility) located in Montgomery County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C
PCB 06-169	<u>Patrick J. Harms Hog Production (Charlotte Facility) (Property Identification Number 24-24-18-300-007) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Patrick J. Harms Hog Production (Charlotte Facility) located in Livingston County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C
PCB 06-170	<u>Patrick J. Harms Hog Production (Pleasant Ridge Facility) (Property Identification Number 23-23-17-300-009) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Patrick J. Harms Hog Production (Pleasant Ridge Facility) located in Livingston County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C
PCB 06-171	<u>American Bottom Conservancy v. IEPA and United States Steel Corporation – Granite City Works</u> – The Board accepted for hearing this permit appeal involving a St. Clair County facility. The Board also granted leave to appear pro hac vice to Maxine I. Lipeles on behalf of petitioner.	4-0 P-A, NPDES 3d Party
PCB 06-172	<u>People of the State of Illinois v. The Carle Foundation Hospital</u> –	4-0

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 Champaign County facility, the Board ordered publication of the required newspaper notice.

L-E

CASES PENDING DECISION

PCB 06-137 City of Springfield v. IEPA (due 6/1)

W-V

OTHER ITEMS

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 June 1, 2006, by a vote of .

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board