

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



Friday, January 26, 2007 - CHICAGO OFFICE
100 W. Randolph Street
Conference Room 11-512
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 4, 2007 meeting were approved by a vote of 4-0.

RULEMAKINGS

R06-26	<u>In the Matter of: Proposed New Clean Air Interstate Rule (CAIR) SO₂, NO_x Annual and NO_x Ozone Season Trading Programs, 35 Ill. Adm. Code 225, Subparts A, C, D and E – No action taken.</u>	R, Air
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R07-5	<u>In the Matter of: RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2006 through June 30, 2006);</u>	4-0
R07-14	<u>In the Matter of: RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2006 through December 31, 2006) – The Board on its own motion consolidated these “identical-in-substance” rulemaking to amend the Board’s hazardous waste regulations and extended the deadline for completion of amendments from April 5, 2007 to October 1, 2007.</u>	R, Land

ADJUSTED STANDARDS

AS 07-3	<u>In the Matter of: Petition of Midwest Generation, L.L.C., Waukegan Generating Station for an Adjusted Standard from 35 Ill. Adm. Code 225.230 – Pending receipt of the certificate of publication, the Board held this Lake County facility’s petition for an adjusted standard from the Board’s air pollution control regulations for mercury emission.</u>	Air
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AS 07-4	<u>In the Matter of: Petition of Midwest Generation, L.L.C., Will County Generating Station for an Adjusted Standard from 35 Ill. Adm. Code 225.230 – Pending receipt of the certificate of publication, the Board held this Will County facility’s petition for an adjusted standard from the Board’s air pollution control regulations for mercury emission.</u>	Air
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ADMINISTRATIVE CITATIONS

AC 05-40	<u>IEPA v. Northern Illinois Service Company – The Board denied respondents motion to stay, noting the appellate court’s dismissal of respondent’s appeal. 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 \$672.25 and a civil penalty of \$3,000. This order follows the Board’s interim order of September 21, 2006, which found that this respondent had violated Sections 21(p)(1) and (p)(7) of the Illinois Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2004)).</u>	4-0
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AC 07-4	<u>IEPA v. Frank Wilhelm</u> – No action taken.	
AC 07-21	<u>County of Macon v. Tim Walker</u> –The Board dismissed respondent’s petition for review as untimely filed and found that this Macon County respondent violated Section (p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2004)), and ordered respondent to pay a civil penalty of \$4,500.	4-0
AC 07-25	<u>City of Chicago Department of Environment v. 1601-1759 East 130th Street, L.L.C.</u> – The Board denied respondent’s motion to consolidate with another pending administrative citation action involving the same parties, AC 06-41.	4-0
AC 07-26	<u>IEPA v. Leonard Hostetler</u> – The Board found that this Macon County respondent 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.	4-0
AC 07-27	<u>IEPA v. Paul Sahlstrom</u> – The Board found that this Winnebago County respondent 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.	4-0
AC 07-30	<u>IEPA v. Bobby G. Myers and Donald D. Myers</u> – The Board accepted an administrative citation against these Union County respondents.	
AC 07-31	<u>IEPA v. Mark A. Lewis</u> – The Board accepted an administrative citation against this Clay County respondent.	
AC 07-32	<u>IEPA v. Don Jose Tandy</u> – The Board accepted an administrative citation against this Macoupin County respondent.	
AC 07-33	<u>IEPA v. Donald R. Langley, Perry D. Winebrinner and Bret Slater</u> – The Board accepted an administrative citation against these Logan County respondents.	

ADJUDICATORY CASES

Decisions

PCB 97-179	<u>People of the State of Illinois v. Midwest Grain Products of Illinois, Inc.</u> – In this air 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 \$200,000, and to cease and desist from further violations. Respondent must contribute \$300,000 to the Illinois Environmental Protection Agency’s Special Projects Fund.	4-0 A-E
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> – In this water enforcement action concerning a Knox 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 Highlands, L.L.C. (Highlands) only, and ordered the Highlands to pay a total civil penalty of \$9,000, and to cease and desist from further violations.	4-0 A-E
PCB 06-150	<u>People of the State of Illinois v. Stoecker Farms, Inc.</u> – In this water enforcement action concerning a Macoupin 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 W-E
PCB 06-171	<u>American Bottom Conservancy v. IEPA and United Steel Corporation – Granite City Works</u> – The Board found that the Illinois Environmental Protection Agency’s decision not to hold a public hearing prior to the issuance of the U.S. Steel permit on March 31, 2006 violated 35 Ill. Adm. Code 309.115(a) of the Board’s regulations, and ruled the permit invalid.	4-0 P-A, NPDES

PCB 06-175 People of the State of Illinois v. Tres Amigos Properties, L.L.C. – In this water enforcement action concerning a Sangamon 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
W-E

PCB 07-1 People of the State of Illinois v. Kurt Carlson – In this water 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, and ordered the respondent to pay a total civil penalty of \$22,000, and to cease and desist from further violations. 4-0
W-E

PCB 07-26 People of the State of Illinois v. Palos Township, Cook County, Illinois – In this 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) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$3,800, and to cease and desist from further violations. 4-0
W-E

PCB 07-35 People of the State of Illinois v. Bradshaw Enterprises, L.L.C. and Brian Bradshaw individually – In this water enforcement action concerning a Clark 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 \$3,500, and to cease and desist from further violations. 4-0
W-E

Motions and Other Matters

PCB 04-185 Midwest Generation EME, L.L.C. v. IEPA – 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 05-29	<u>Mather Investment Properties, L.L.C. v. Illinois State Trapshooters Association, Inc.</u> – No action taken.	L-E
PCB 05-49	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – No action taken.	A&L-E
PCB 05-157	<u>Grand Pier Center L.L.C. and 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.; Tronox L.L.C. v. Grand Pier Center L.L.C. and American International Specialty Lines Insurance Co.</u> – No action taken.	Citizens L-E
PCB 05-212	<u>John and Linda Maracic v. TNT Logistics North America Inc.</u> – No action taken.	N-E
PCB 05-213	<u>Vincent and Jennifer Neri v. TNT Logistics North America Inc.</u> – No action taken.	N-E
PCB 05-216	<u>Wayne Haser v. TNT Logistics North America Inc.</u> – No action taken.	N-E
PCB 05-217	<u>Ken Blouin v. TNT Logistics North America Inc.</u> – No action taken.	N-E
PCB 06-14	<u>Q&E Properties, Inc. v. IEPA</u> – The Board granted this Sangamon County facility’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal

PCB 06-52	<u>Knapp Oil Company, Don's 66 v. IEPA</u> – No action taken.	UST Appeal
PCB 06-53	<u>C&F Packing Company, Inc. v. IEPA and Lake County</u> – No action taken.	W-V
PCB 06-132	<u>People of the State of Illinois v. Lake Pointe Estates, 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 Sangamon County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 06-152	<u>James Chew and Lynn Chew v. Dick F. Borgmiller and Sportsblast, L.L.C.</u> – The Board granted this Jackson County facility's motion for voluntary dismissal of this citizens' noise enforcement action.	4-0 Citizens N-E
PCB 06-177	<u>People of the State of Illinois v. Sheridan Sand & Gravel Co.</u> – The Board granted respondent's motion for leave to file an amended answer and affirmative defenses. The Board denied as moot complainant's motion to strike affirmative defenses as plead in the first answer. The Board granted complainant leave to file a new motion to strike in response to the amended answer and affirmative defenses.	4-0 L-E
PCB 06-184	<u>Peoria Disposal Company v. Peoria County Board</u> – No action taken.	P-C-F-S-R
PCB 06-188	<u>People of the State of Illinois v. Karam Toor and Surjit Toor individuals d/b/a Toor Car and Truck Plaza and Singh Inc. of Illinois d/b/a Toor Car and Truck Plaza</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 07-17	<u>Dale L. Stanhibel v. Tom Halat d/b/a Tom's Vegetable Market</u> – No action taken.	Citizens A&N – E
PCB 07-11	<u>Lincolnshire/State Oil S&S Petroleum v. IEPA</u> – The Board granted this Lake County facility's motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
PCB 07-22	<u>Estate of William Eggert v. IEPA</u> – The Board granted this Cook County facility's motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
PCB 07-24	<u>Webb & Sons, Inc. v. IEPA</u> – No action taken.	UST Appeal
PCB 07-27 PCB 07-48	<u>Village of Wilmette v. IEPA</u> – No action taken.	4-0 UST Appeal
PCB 07-29	<u>People of the State of Illinois v. Pinnacle Genetics, L.L.C. and Professional Swine Management, 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 air and water enforcement action involving a McDonough County facility, the Board ordered publication of the required newspaper notice.	4-0 A,W-E
PCB 07-30	<u>The Premcor Refining Group, Inc. v. IEPA</u> – The Board granted petitioner's motion for leave to file an amended petition, and accepted the amended petition for review. The respondent's motion to dismiss was denied as moot. The Board also granted petitioner's motion to stay the effectiveness of the CAAPP permit. The Board also granted respondent's motion for leave to file the administrative record <i>instanter</i> , and accepted the administrative record.	4-0 P-A, Air

PCB 07-44	<u>Indian Creek Development Company individually as beneficiary under Trust 3291 of the Chicago Title and Trust Company dated December 15, 1981 and the Chicago Title and Trust Company, as trustee under trust 3291 dated December 15, 1981 v. The Burlington Northern Santa Fe Railway Company</u> – No action taken.	L&W-E
PCB 07-53	<u>People of the State of Illinois v. Moline Place Development, L.L.C. and Crosstowne Place Development, L.L.C.</u> – The Board accepted for hearing this water enforcement action involving a site located in Rock Island County.	4-0 W-E
PCB 07-54	<u>Auburn Realty Company, Inc. 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 Christian County facility.	4-0 UST Appeal 90-Day Ext.
PCB 07-55	<u>Marathon Ashland Petroleum, L.L.C. (Continuous Emissions Monitoring System) (Property Identification Number 51-34-1-21 or portion thereof) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Ashland Petroleum, L.L.C. located in Crawford 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 Air
PCB 07-56	<u>Marathon Ashland Petroleum, L.L.C. (Gasoline Desulfurization Unit) (Property Identification Number 51-34-1-21 or portion thereof) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Ashland Petroleum, L.L.C. located in Crawford 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 Air

PCB 07-57	<u>Marathon Ashland Petroleum, L.L.C. (Platformer Vent Gas Scrubber) (Property Identification Number 51-34-1-21 or portion thereof) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Ashland Petroleum, L.L.C. located in Crawford 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 Air
PCB 07-58	<u>Marathon Ashland Petroleum, L.L.C. (Steam Supply to Nos. 1 and 5 Flares) (Property Identification Number 51-34-1-21 or portion thereof) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Ashland Petroleum, L.L.C. located in Crawford 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 Air
PCB 07-59	<u>Gateway FS, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Randolph County facility and on its own motion consolidated this matter with PCB 06-61.	4-0 UST Appeal
PCB 07-60	<u>Mikuska Investments, Ltd. 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 Will County facility.	4-0 UST Appeal 90-Day Ext.
PCB 07-61	<u>Gateway FS, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Randolph County facility and on its own motion consolidated this matter with PCB 06-59.	4-0 UST Appeal

PCB 07-62	<u>R.W. Sheridan Oil Company 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 DeWitt County facility.	4-0 UST Appeal 90-Day Ext.
PCB 07-63	<u>PMA & Associates, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Union County facility.	4-0 UST Appeal
PCB 07-64	<u>Wright Petroleum 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 Hancock County facility.	4-0 UST Appeal 90-Day Ext.
PCB 07-65	<u>Electro-Motive Diesel, Inc. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Cook County facility.	4-0 P-A, Air 90-Day Ext.
PCB 07-66	<u>Ted’s Citgo v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Lake County facility.	4-0 UST Appeal
PCB 07-67	<u>Klean Wash, Inc. (Property Identification Number 06-06-08-406-027) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Klean Wash, Inc. located in Tazewell 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 Water

PCB 07-68	<u>People of the State of Illinois v. Chippewa Loft, L.L.C.</u> – The Board accepted for hearing this air enforcement action involving a site located in Madison County.	4-0 A-E
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PCB 07-69	<u>Siemens Energy & Automation 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 Kane County facility.	4-0 UST Appeal 90-Day Ext.
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CASES PENDING DECISION

AC 04-51	<u>IEPA v. Michael Moreton</u>	Johnson
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AC 06-32	<u>County of Jackson v. David Skidmore</u>	Johnson
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OTHER ITEMS

The Chairman’s motion was granted to hold a closed meeting of the Pollution Control Board on Tuesday, January 30, 2007 at 10:00 a.m. in Room N505, Michael A. Bilandic Building, 160 N. LaSalle Street, Chicago for consideration of subjects included in Section 21(c)(1) of the Open Meetings Act.	4-0
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The Chairman’s motion was granted under Section 2.06(c) of the Open Meetings Act (5 ILCS 120/2.06(c)). The Clerk must preserve only written minutes of closed Board deliberative sessions occurring on or before June 30, 2005 and destroy verbatim tape recordings of meetings held: January 13 and January 27; February 10 and February 24; March 10, March 24, and March 31; April 14 and April 28; May 12 and May 26; June 9.	4-0
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Chairman's motion was granted under Section 2.06(d) of the Open Meetings Act (5 ILCS 120/2.06(d)). The Clerk must continue to keep confidential minutes of closed Board meetings occurring between July 1, 2006 through December 31, 2006.

4-0

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 February 1, 2007, by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board