

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



THURSDAY, FEBRUARY 15, 2007 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 February 1, 2007 meeting were approved by a vote of 4-0.

RULEMAKINGS

R06-10	<u>In the Matter of: Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)</u> – The Board adopted a final opinion and order in this rulemaking which amends the Board’s land pollution control regulations.	4-0 R, Land
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R06-24	<u>In the Matter of: Revisions to Water Quality Standards for Total Dissolved Solids in the Lower Des Plaines River for ExxonMobil Oil Corporation: Proposed 35 Ill. Adm. Code 303.445</u> – The Board adopted a final opinion and order in this site-specific rulemaking which amends the Board’s water pollution control regulations.	4-0 R, Water
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</u> – No action taken.	R, Air

ADJUSTED STANDARDS

AS 07-1	<u>In the Matter of: Petition of BP Products North America Inc. for an Adjusted Standard to 35 Ill. Adm. Code 720.122</u> – The Board denied this petition for an adjusted standard seeking a Resource Conservation and Recovery Act hazardous waste delisting for leachate generated from a landfill, located at the former Amoco Wood River refinery, in Wood River, Madison County. The Board found that petitioner had not provided justification required by Section 28.1 of the Environmental Protection Act (415 ILCS 5/28.1 (2004)).	4-0 Johnson concurred Land
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</u> – The Board accepted for hearing this petition for an adjusted standard seeking relief from the rules limiting emission of mercury from coal-fired electrical generating units adopted by the Board on December 21, 2006, in <u>Proposed New 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury), R06-25.</u>	4-0 Air
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</u> – The Board accepted for hearing this petition for an adjusted standard seeking relief from the rules limiting emission of mercury from coal-fired electrical generating units adopted by the Board on December 21, 2006, in <u>Proposed New 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury), R06-25.</u>	4-0 Air

ADMINISTRATIVE CITATIONS

AC 05-8	<u>IEPA v. Ted Harrison and Gerald S. Gill</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Woodford County facility, the Board found that respondent Ted Harrison had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2004)) and ordered Harrison to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondent’s petition for review, the alleged violation of 415 ILCS 5/21(p) (7) (2004), and complainant’s motion to dismiss Gerald S. Gill from this action.	4-0
AC 06-32	<u>County of Jackson v. David Skidmore</u> – No action taken.	
AC 07-4	<u>IEPA v. Frank Wilhelm</u> – The Board granted respondent’s motion to withdraw his motion to dismiss, after granting complainant’s motion to withdraw this administrative citation. The Docket is closed.	4-0
AC 07-30	<u>IEPA v. Bobby G. Myers and Donald D. Myers</u> – The Board accepted respondents’ petition for review in this administrative citation involving a Union County facility, and set the matter for hearing.	4-0
AC 07-34	<u>County of Jackson v. Alvin Valdez and Ruben Valdez</u> – The Board accepted an administrative citation against these Jackson County respondents.	
AC 07-35	<u>County of Jackson v. Gary Easton</u> - The Board accepted an administrative citation against this Jackson County respondent.	
AC 07-36	<u>IEPA v. Lawrence Abraham Bartolomucci</u> – The Board accepted an administrative citation against this Jackson County respondent.	
AC 07-37	<u>IEPA v. Lawrence Abraham Bartolomucci</u> – The Board accepted an administrative citation against this Jefferson County respondent.	

AC 07-38 IEPA v. Lawrence Abraham Bartolomucci - The Board accepted an administrative citation against this Jefferson County respondent.

AC 07-39 County of Jackson v. Gary Easton - The Board accepted an administrative citation against this Jackson County respondent.

AC 07-40 IEPA v. Glen I. Suttles and Elizabeth J. Suttles – The Board accepted an administrative citation against these Morgan County respondents.

AC 07-41 IEPA v. Glen I. Suttles and Elizabeth J. Suttles – The Board accepted an administrative citation against these these Morgan County respondents.

AC 07-42 IEPA v. Waste Management of Illinois, Inc. and CT Corporation System – The Board accepted an administrative citation against these Peoria County respondents.

ADJUDICATORY CASES

Decisions

PCB 06-132 People of the State of Illinois v. Lake Pointe Estates 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 \$7,500, and to cease and desist from further violations. 4-0
W-E

PCB 06-188 People of the State of Illinois v. Karam Topor 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 – In this water 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 respondents to pay a total civil penalty of \$6,300, and to cease and desist from further violations. 4-0
W-E

PCB 07-24 Webb & Sons, Inc. v. IEPA – In an interim opinion and order, the Board affirmed respondent’s rejection of petitioner’s proposed budget for personnel for four specified job titles, but reversed the Illinois Environmental Protection Agency’s (Agency’s) rejection of petitioner’s proposed budget for the 16 remaining job titles in the proposed personnel budget. The Board also granted petitioner’s motion to incorporate specified documents by reference into the record of this proceeding, but reserved ruling on its request for the reimbursement of fees. Petitioner must file on or before March 8, 2007, a statement of its legal fees and costs that may be eligible for reimbursement and its argument why the Board could exercise its discretion to direct the Agency to reimburse those costs. The Agency must respond on or before March 29, 2007. 4-0
UST
Appeal

Motions and Other Matters

PCB 03-191 People of the State of Illinois v. Community Landfill Company, Inc. and the City of Morris – No action taken. L-E

PCB 03-198 Ted Harrison Oil Co., Inc. v. IEPA – The Board granted this Cass County facility’s motion for voluntary dismissal of this underground storage tank appeal. 4-0
UST
Appeal

PCB 04-31	<u>Broadus Oil v. IEPA</u> – No action taken.	UST
PCB 05-43 (cons.)		Appeal
PCB 04-185	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – The Board denied petitioner’s motion to extend the stay of this trade secret appeal.	4-0 T-S Appeal
PCB 04-215	<u>Commonwealth Edison Company v. IEPA</u> – The Board denied petitioner’s motion to extend the stay of this trade secret appeal.	4-0 T-S Appeal
PCB 04-216	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – The Board denied petitioner’s motion to extend the stay of this trade secret appeal. The Board also denied petitioner’s motion for partial reconsideration and granted leave to file a motion for a limited remand.	4-0 T-S Appeal
PCB 05-49	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – In response to respondent’s renewed motion, the Board granted summary judgment in respondent’s favor and closed this docket.	4-0 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> – The Board granted complainants’ motion for default judgment against River East L.L.C. and Chicago Dock and Canal Trust. The Board reserved ruling on any penalties or cost recovery to be levied against River East and Chicago Trust until the remaining allegations of the complaint and cross-complaint have been resolved and the Board enters a final order.	4-0 Citizens L-E

PCB 05-193	<u>Vernon and Elaine Zohfeld v. Bob Drake, Wabash Valley Service Company, Michael J. Pfister, Doah D. Horton, and Steve Kinder</u> – No action taken.	A-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 06-52	<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 06-79	<u>People of the State of Illinois v. City of Gillespie</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 Macoupin County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E
PCB 06-184	<u>Peoria Disposal Company v. Peoria County Board</u> – The Board denied petitioner’s motion for summary judgment, and motion for reconsideration of the December 21, 2006 Board order granting leave to supplement the record on appeal and file second amended index.	4-0 P-C-F-S-R
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 07-27	<u>Village of Wilmette v. IEPA</u> – No action taken.	UST
PCB 07-48		Appeal
PCB 07-31	<u>Celozzi-Ettelson Chevrolet, Inc. 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 DuPage County facility.	4-0 UST Appeal
PCB 07-36	<u>Noveon, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this request for a 90-day extension of the appeal period.	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 07-71	<u>Lone Star Industries, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal on behalf of this LaSalle County facility. The Board reserved ruling on petitioner’s motion to stay the effectiveness of the contested construction permit conditions.	4-0 P-A, Air
PCB 07-72	<u>LRV Farms-Prophetstown (Property Identification Numbers 2117100001 & 2117100002) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of LRV Farms, located in Whiteside 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 Land
PCB 07-73	<u>People of the State of Illinois v. Randy Edmund d/b/a Edmund Farms</u> – Upon receipt of a complaint accompanied by a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Henry County facility, the Board ordered publication of the required newspaper notice.	4-0 W-E

PCB 07-74 Pinnacle Foods Group Inc. (Property Identification Number 01-12-34-200-002) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Pinnacle Foods Group Inc., located in Fayette 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 07-75 Marathon Petroleum Company, L.L.C. Robinson Refinery (Parcel 54-34-1-21) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Petroleum Company, 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
Water

PCB 07-76 2F, Inc. v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Saline County facility.

4-0
UST
Appeal

CASES PENDING DECISION

AC 05-47 IEPA v. Stacy Hess – Interim Opinion and Order

PCB 04-88 Des Plaines River Watershed Alliance, Livable Communities Alliance, Prairie Rivers Network, and Sierra Club v. IEPA and Village of New Lenox P-A, NPDES

ADJOURNMENT

Moved and seconded, by a vote of 4-0, Chairman Girard adjourned the meeting at 11:35 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on March 1, 2007, by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board