

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



THURSDAY, APRIL 19, 2007
VILLAGE OF LIBERTYVILLE
118 W. Cook Street – Second Floor
Libertyville, Illinois
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 except for Member Melas who was absent.

APPROVAL OF MINUTES

The minutes of the March 15, 2007 open meeting and the March 22, 2007 and April 16, 2007 closed deliberative sessions were approved by a vote of 3-0.

RULEMAKINGS

R06-21	<u>In the Matter of: Organic Material Emissions Standards and Limitations for the Chicago and Metro-East Areas: Proposed Amendments to 35 Adm. Code 218 and 219</u> – The Board adopted a final opinion and order in this rulemaking which amends the Board’s air pollution regulations.	3-0 R, Air
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R06-26	<p><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> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s air pollution regulations. The Board granted the SIPCO and Midwest Generation request to withdraw from the November 30, 2006 motion to dismiss the proposal, leaving Dynegy as the sole remaining movant of the motion to dismiss. On March 13, 2007, Dynegy requested that the Board stay action on the motion to dismiss. The Board granted the motion to stay. The Board granted the motions to amend the proposal by; the Illinois Environmental Protection Agency’s (Agency) November 27, 2006, by Midwest Generation and the Agency, jointly, February 16, 2007, and Dynegy and the Agency, jointly, March 13, 2007.</p>	3-0 R, Air
R07-2 R07-11 (cons.)	<p><u>In the Matter of: SDWA Update, USEPA Amendments (January 1, 2006 through June 30, 2006; In the Matter of: SDWA Update, USEPA Amendments (July 1, 2006 through December 31, 2006)</u> – The Board extended the deadline for completion of rulemaking in this consolidated docket from April 30, 2007 to August 6, 2007.</p>	3-0 R, PWS
R07-17	<p><u>In the Matter of: Amendments to the Board’s Procedural Rules and Underground Storage Tank Regulations to Reflect P.A. 94-0274, P.A. 94-0276, and P.A. 94-0824 (35 Ill. Adm. Code 101.202, 732.103, 732.702, 734.115, 734.710)</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s procedural rules and underground storage tank regulations to reflect recent legislation.</p>	3-0 R, Land

R07-18	<p><u>In the Matter of: Nitrous Oxide (NOx) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Section 201.146, Parts 211 and 217</u> – The Board accepted for hearing the Illinois Environmental Protection Agency’s (Agency) April 6, 2007 proposal filed under the Clean Air Act fast track procedures of Section 28.5 of the Environmental Protection Act (415 ILCS 5/28 (2004)). The Board adopted a first notice opinion and order to amend the Board’s air pollution control regulations, specifically to satisfy Illinois’ obligations under the Unites States Environmental Protection Agency’s nitrogen oxides (NOx) State Implementation Plan Call Phase II. The Board granted the Agency’s motion for waiver of copy requirements and waived the requirement to file nine copies of the materials. No action was taken on the separate objections to use of the fast track procedure filed by the Pipeline Consortium and the Illinois Environmental Regulatory Group on April 16 and 17, 2007; responses are due by May 8, 2007.</p>	<p>3-0 R, Air</p>
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ADJUSTED STANDARDS

AS 07-5	<p><u>In the Matter of: Petition of Cabot Corporation for an Adjusted Standard from 35 Ill. Adm. Code Part 738, Subpart B</u> – No action taken.</p>	<p>Land</p>
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ADMINISTRATIVE CITATIONS

AC 05-40	<p><u>IEPA v. Northern Illinois Service Company</u> – The Board construed respondent’s motion to modify as a motion to stay payment of part of the penalty and hearing cost in the January 26, 2007 Board Order in this administrative citation involving a Winnebago County facility. The Board granted the stay, but ordered payment of the uncontested \$1,500.</p>	<p>3-0</p>
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AC 07-21	<p><u>County of Macon v. Tim Walker</u> – No action taken.</p>	
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AC 07-32	<u>IEPA v. Don Jose Tandy</u> – The Board granted complainant’s motion for dismissal of this administrative citation and closed the docket.	3-0
AC 07-40	<u>IEPA v. Glen I. And Elizabeth J. Suttles</u> – The Board found that these Morgan County respondents violated Section (p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)), and ordered respondents to pay a civil penalty of \$1,500.	3-0
AC 07-41	<u>IEPA v. Glen I. And Elizabeth J. Suttles</u> – The Board found that these Morgan County respondents violated Sections (p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2004)), and ordered respondents to pay a civil penalty of \$3,000.	3-0
AC 07-42	<u>IEPA v. Waste Management of Illinois, Inc. and CT Corporation Systems</u> – The Board found that these Peoria County respondents violated Section (o)(12) of the Act (415 ILCS 5/21(o)(12) (2004)), and ordered respondents to pay a civil penalty of \$500.	3-0
AC 07-44	<u>IEPA v. Harold Tomlinson, Larry Tomlinson, and Jerry Tomlinson</u> – The Board granted complainant’s motion to dismiss Jerry Thomlinson from this action. The Board found that the remaining respondents violated Sections 21(p)(1), (3) and (7) of the Act (415 ILCS 5/21(p)(1), (3) and (7) (2004)), assessing a penalty of \$4,500 in this administrative citation involving a Marshall_County facility.	3-0
AC 07-45	<u>County of LaSalle v. Wayne and Becky Foster</u> – The Board accepted for hearing this petition for review of an administrative citation against this LaSalle County respondent.	3-0
AC 07-46	<u>IEPA v. Adolph M. Lo</u> – The Board found that this Champaign respondent violated Sections 21(p)(1), (3) and (7) of the Act (415 ILCS 5/21(p)(1), (3) and (7) (2004)) and ordered respondent to pay a penalty of \$4,500.	3-0

AC 07-47	<u>County of Ogle v. Rochelle Waste Disposal, LLC and Clyde A. Gelderloos, Chief Operator, and City of Rochelle</u> – The Board accepted an administrative citation against these Ogle County respondents.	
AC 07-48	<u>IEPA v. Ben and Destiny Wyant</u> - The Board granted complainant’s motion for dismissal of this administrative citation and closed the docket.	3-0
AC 07-49	<u>IEPA v. Herman F. and Karen Meyers</u> – The Board accepted an administrative citation against these Massac County respondents.	
AC 07-50	<u>IEPA v. Doug Hensley and Eric & Charmin Joseph</u> – The Board accepted an administrative citation against these Henderson County respondents.	
AC 07-51	<u>IEPA v. Gene Breeden</u> – The Board accepted an administrative citation against this Iroquois County respondent.	
AC 07-52	<u>County of LaSalle v. Mike Johnson</u> – The Board accepted an administrative citation against this LaSalle County respondent.	
AC 07-53	<u>IEPA v. Renee C. Lo</u> – The Board accepted an administrative citation against this Champaign County respondent.	

ADJUDICATORY CASES

Decisions

PCB 04-88 Des Plaines River Watershed Alliance, Livable Communities Alliance, Prairie Rivers Network, and Sierra Club v. IEPA and Village of New Lenox – The Board found that, on October 31, 2003, the Illinois Environmental Protection Agency (Agency) improperly grant an National Pollution Control Elimination System permit to the Village of New Lenox, Will County, for a wastewater treatment plant. The Board remanded the permit to the Agency for additional review under the antidegradation provisions of the Board rules. 3-0
P-A,
NPDES

PCB 05-191 People of State of Illinois v. Castle Ridge Estates – In this water enforcement action concerning a Madison 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)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$5,000, and to cease and desist from further violations. 3-0
W-E

PCB 07-37 People of the State of Illinois v. Village of Dorchester – In this public water supply 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)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$300, and to cease and desist from further violations. 3-0
PWS-E

Motions and Other Matters

PCB 99-134 People of the State of Illinois v. Peabody Coal Company – No action taken. W-E

PCB 04-185	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – The Board granted petitioner’s motion to strike portions of respondent’s supplemental determination. Consistent with the Board’s November 4, 2004 order, petitioner must, within 30 days, file a pleading with the Board responsive to respondent’s supplemental determination, as amended by the April 19, 2007 order.	3-0 T-S Appeal
PCB 05-30	<u>Village of Frankfort v. IEPA</u> – The Board granted this Will County facility’s motion for voluntary dismissal of this permit appeal.	3-0 P-A, Water
PCB 05-93	<u>York High Neighborhood Committee (a voluntary organization, Janet and Fred Hodge, Patricia and David Bennett, Sheila and Mike Trant, Joe Vosicky, Jean and Peter Conroy, Frank Soldano, Joseph Reamer, Elizabeth and Charles Laliberte v. Elmhurst Public Schools, District 205</u> – The Board found that the parties’ stipulation and proposed settlement agreement is deficient under the Board’s procedural rules and therefore declined to accept it. The parties have until June 4, 2007, to file an amended stipulation and proposed settlement agreement with the Board, addressing the deficiencies. Failure to do so may result in the case’s dismissal.	3-0 N-E
PCB 05-193	<u>Vernon and Elaine Zohfeld v. Bob Drake, Wabash Valley Service Company, Michael J. Pfister, Noah D. Horton, and Steve Kinder</u> – No action taken.	A-E
PCB 06-26	<u>Telzrow Oil Company v. IEPA</u> – The Board granted this Jersey County facility’s motion for voluntary dismissal of this underground storage tank appeal.	3-0 UST Appeal
PCB 06-52	<u>Knapp Oil Company, Don’s 66 v. IEPA</u> – No action taken.	UST Appeal

PCB 06-78	<u>People of the State of Illinois v. North American Lighting, 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 and water enforcement action involving a Clay County facility, the Board ordered publication of the required newspaper notice.	3-0 A&W-E
PCB 06-151	<u>People of the State of Illinois v. Big River Zinc and Allied Waste Transportation, Inc. d/b/a Midwest Waste</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 St. Clair County facility, the Board ordered publication of the required newspaper notice.	3-0 L-E
PCB 06-160	<u>People of the State of Illinois v. Matrix National Investment Corp.</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 Jo Daviess County facility, the Board ordered publication of the required newspaper notice.	3-0 W-E
PCB 06-171	<u>American Bottom Conservancy v. IEPA and United States Steel Corporation – Granite City Works</u> – No action taken.	P-A, NPDES
PCB 06-177	<u>People of the State of Illinois v. Sheridan Sand & Gravel Co.</u> – No action taken.	L-E
PCB 06-193	<u>People of the State of Illinois v. Ron Fisher Motorsports, 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 Washington County facility, the Board ordered publication of the required newspaper notice.	3-0 L-E
PCB 07-16	<u>People of the State of Illinois v. CSX Transportation, Inc.</u> – No action taken.	W-E

PCB 07-24	<u>Webb & Sons, Inc. v. IEPA</u> – No action taken.	UST Appeal
PCB 07-27	<u>Village of Wilmette v. IEPA</u> – No action taken.	UST Appeal
PCB 07-41	<u>People of the State of Illinois v. Village of Nebo</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 Pike County facility, the Board ordered publication of the required newspaper notice.	3-0 PWS-E
PCB 07-48	<u>Village of Wilmette v. IEPA</u> – No action taken.	UST Appeal
PCB 07-54	<u>Auburn Realty Company, 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 facility in Christian County.	3-0
PCB 07-60	<u>Mikuska Investments, Ltd. 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 facility in Will County.	3-0
PCB 07-62	<u>R.W. Sheridan Oil Company, 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 facility in DeWitt County.	3-0
PCB 07-64	<u>Wright Petroleum 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 facility in Hancock County.	3-0
PCB 07-85	<u>T-Town Drive Thru, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Effingham County facility.	3-0 UST Appeal

PCB 07-86	<u>People of the State of Illinois v. The Ridges of Coal Valley</u> – The Board accepted for hearing this water enforcement action involving a site located in Rock Island County.	3-0 W-E
PCB 07-87	<u>Estate of Fred Johnson 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.	3-0 UST Appeal 90-Day Ext.
PCB 07-88	<u>Christian County Farmers Supply Company-Morrisonville (Property Identification Number 13-22-09-100-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Christian County Farmers Supply Company, located in Christian County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	3-0 T-C Water
PCB 07-89	<u>Christian County Farmers Supply Company-Pana (Property Identification Number 11-25-15-101-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Christian County Farmers Supply Company, located in Christian County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	3-0 T-C Water
PCB 07-90	<u>Christian County Farmers Supply Company-Tovey (Property Identification Number 15-12-08-100-002) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Christian County Farmers Supply Company, located in Christian County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	Girard T-C Water

PCB 07-91	<u>Dynegy Midwest Generation, Inc. – Wood River Power Station (Property Identification Number 19-1-08-19-00-000-006) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynegy Midwest Generation, Inc., located in Madison County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	3-0 T-C Water
PCB 07-92	<u>Elite Pork, L.L.C-Esmond (Property Identification Number 19-01-200-003) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Elite Pork, L.L.C., located in Ogle County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	3-0 T-C Water
PCB 07-93	<u>Equistar Chemicals, L.P. (Property Identification Number 03-20-200-014) v. IEPA</u> – No action taken.	T-C Water
PCB 07-94	<u>City of Joliet v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Will County facility.	3-0 P-A Water
PCB 07-95	<u>People of the State of Illinois v. AET Environmental, Inc. and E.O.R. Energy, L.L.C.</u> – The Board accepted for hearing this land enforcement action involving a site located in Sangamon County.	3-0 L-E
PCB 07-96	<u>Kyle Nash v. Karen Sokolowski</u> – The Board held for a later duplicative/frivolous determination this citizens’ noise enforcement action involving a Cook County facility.	N-E Citizens
PCB 07-97	<u>Kyle Nash v. Louis Jiminez</u> – The Board held for a later duplicative/frivolous determination this citizens’ noise enforcement action involving a Cook County facility.	N-E Citizens

PCB 07-98	<u>Roy and Nathan Wiegand Roanoke (Property ID # 11-33-100-004) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Roy and Nathan Wiegand Roanoke, located in Woodford County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	3-0 T-C Water
PCB 07-99	<u>L.W. Paul Supply Co., Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	3-0 UST Appeal
PCB 07-100	<u>Wayne and Susan Bergbower-Newton (Property Identification Number 90-08-16-300-009) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Wayne and Susan Bergbower-Newton, located in Jasper County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	3-0 T-C Water
PCB 07-101	<u>Midwest Generation, L.L.C. – Powerton Generating Station v. IEPA</u> – No action taken.	P-A, Air
PCB 07-102	<u>City of O’Fallon v. IEPA</u> – No action taken.	P-A, NPDES
PCB 07-103	<u>Christian County Farmers Supply Co. (Property Identification Number 07-19-36-100-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Christian County Farmers Supply Co., located in Christian County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	3-0 T-C

CASES PENDING DECISION

OTHER ITEMS

ADJOURNMENT

Moved and seconded, by a vote of 3-0, Chairman Girard adjourned the meeting at 11:43 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on May 3, 2007, by a vote of 3-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board