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# Environmental Register

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G. Tanner Girard, Acting Chairman

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## Letter from the Chairman

On February 23, 2009, the Pollution Control Board hosted the Gansu Delegation for Energy Conservation from Gansu Province, People's Republic of China. The Gansu Delegation is a group of government officials and engineers who are involved in energy and pollution programs in their province. The purpose of their trip was to learn more about how the U. S. government and other organizations deal with energy and pollution issues. The visit was coordinated by the 21<sup>st</sup> Century Institute in Chicago, which is a non-profit organization that promotes exchange programs between China and U. S. in the areas of culture, business, environment and education.



Board Member Lin, Attorney Assistant Marie Tipsord, and I hosted the group for a seminar at our offices in Springfield. We spent several hours describing the responsibilities, goals, and organization of the Board, including specific examples of our regulatory and adjudicatory actions. The Gansu Delegation asked numerous questions; and was particularly interested in the interactions among the various Illinois agencies with environmental responsibilities, as well as our relationship to federal authorities. We were greatly honored to have such wonderful guests.

In February, the Board also held hearings in three ongoing rulemakings. In R08-19 (In the Matter of Nitrogen Oxides Emissions from Various Source Categories, Amendments to 35 Ill. Adm. Code Parts 211 and 217), the Board held a third hearing on February 3, 2009, in Edwardsville. In R09-10 (In the Matter of Amendments to 35 Ill. Adm. Code 225: Control of Emissions from Large Combustion Sources (Mercury Monitoring)), the Board held a second hearing on February 10, 2009. The Board will accept public comments in these two rulemaking and consider proceeding to second notice.

In R08-9 (Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304), the Board held the twenty fourth day of hearing on February 17, 2009, in Chicago. The Board continued the February 17, 2009 hearing in R08-9 on the record to a hearing date in March and has scheduled more hearings in April and May. Scheduled hearings can be found on the calendar on our website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

Sincerely,

A handwritten signature in black ink that reads "G. Tanner Girard". The signature is written in a cursive, flowing style.

Dr. G. Tanner Girard

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## Appellate Update

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### **Fifth District Affirms Board Grant of Summary Judgment and Resolution of Penalty Issues Without Hearing in People of the State of Illinois v. Illinois Pollution Control Board and CSX Transportation, Inc., No. 5-07-0504 (Feb. 26, 2009) (affirming Board's orders in PCB 07-16 (Jul. 12 & Aug. 9, 2007))**

In a February 26, 2009 6-page unpublished order, the Fifth District Appellate Court upheld the Board's decision in People of the State of Illinois v. Illinois Pollution Control Board and CSX Transportation, Inc., No. 5-07-0504 (Feb. 26, 2009) (CSX (Fifth Dist.)). In an enforcement action involving cross-motions for summary judgment, the Board resolves penalty issues without a hearing as requested by complainant, the successful movant for summary judgment in its favor. People of the State of Illinois v. CSX Transportation, Inc., PCB 07-16 (Jul. 12, 2007; reconsid. den. Aug. 9, 2007)) (CSX, PCB 06-76). The court's ruling was a non-precedential order, issued under Illinois Supreme Court Rule 23 (166 Ill.2d R.23). The orders of the Board and court are summarized below.

#### The Board's Orders (CSX, PCB 06-76)

In the September 12, 2006 complaint before the Board, the People of the State of Illinois (People) alleged that CSX Transportation, Inc. (CSX) violated the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2006)). In 2004, CSX spilled 400 to 500 gallons of diesel fuel onto the ground at its Rose Lake railroad yard in St. Clair County. The People alleged that in so doing CSX violated water pollution and open dumping provisions of the Act, and failed to thoroughly and timely remediate the site.

Beginning in the spring of 2007, CSX filed a motion for summary judgment and the People filed a cross-motion for summary judgment. The People's motion sought summary judgment on the alleged violations. However, the People's motion asserted that genuine issues of material fact existed on questions of civil penalty, and therefore requested a penalty hearing. CSX's response to the People's motion urged the Board to deny the People's request for a penalty hearing because CSX did not violate the Act and, even if the Board found that CSX did violate the Act, a civil penalty was not appropriate based on the record.

The Board issued a 20-page opinion and order in response to the motions. The Board granted summary judgment in favor of the People, finding that CSX violated the water pollution, water pollution hazard, and open dumping prohibitions of Sections 12(a), (d) and 21(a) of the Act (415 ILCS 5/12(a), (d), and 21(a) (2006)). People of the State of Illinois v. CSX Transportation, Inc., PCB 07-16 (Jul. 12, 2007) (CSX, PCB 06-76). Declining to grant the People's request for a hearing on penalty issues, the Board considered the uncontested facts in light of the factors spelled out in Sections 33(c) and 42 (h) of the Act (415 ILCS 5/33(c) and 42(h) (2006)). The Board concluded that:

Based on CSX's prompt action after an accidental spill to cleanup the site of the spill, the Board finds that no civil penalty is necessary to deter future violations of the Act. The Board further finds that no economic benefit occurred to CSX because of the failure to remediate the exceedances found at the sampling site S4 especially as the release has been remediated. The Board finds that no civil penalty is warranted in this case; however the Board will order CSX to cease and desist from further violations. CSX, PCB 06-76, slip op. at 19 (Jul. 19, 2007).

On August 9, 2007, the Board denied the People's motion for reconsideration. The People had argued that the issue of the amount of a penalty was not part of either motion for summary judgment and was accordingly not properly before the Board; CSX filed a response in opposition. CSX, PCB 06-76 (Aug. 9, 2007).

#### The Fifth District's Order (CSX (Fifth Dist.))

The People appealed the Board's orders to the Fifth District Appellate Court. The Fifth District Order begins by summarizing the above proceedings. CSX (Fifth Dist.) Order at 1-3.

The Fifth District then commented on the People’s difficulties in stating the issue on appeal, agreeing with CSX that the People sought to “‘shoehorn several distinct issues with various legal standards’” (CSX (Fifth Dist.) Order at 4, quoting CSX brief) into their statement of the issue:

whether the Board abused its discretion in failing to hold a hearing on the penalty issue and whether the Board’s failure to impose a penalty was arbitrary and capricious” (*Id.*, Order at 4).

The court observed that the People stated to the court that they did not wish the court to impose a civil penalty but rather to remand for a penalty hearing, leading the court to conclude that the People must be asserting on appeal that there exist genuine issues of material fact regarding civil penalty, making it inappropriate for the Board to have disposed of the matter by summary judgment. CSX (Fifth Dist.), Order at 4. Having so framed the issue, the court applied the *de novo* standard of review to the Board’s ruling. *Id.* at 5, citing Forsythe v. Clark USA, Inc., 224 Ill. 2d 274, 280 (2007).

The court then recited the standard of decision for summary judgment: that it is proper to award summary judgment only where the pleadings, affidavits, depositions, admissions, and exhibits on file, viewed in the light most favorable to the non-movant, reveal that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law. CSX (Fifth Dist.), Order at 5. The People argued that there were disputed issues of material fact concerning CSX’s diligence and cooperation in cleaning up the site. According to the People, CSX denied the People’s allegations that CSX failed to respond to several Illinois Environmental Protection Agency (IEPA) letters and notices, and CSX and the People also disagreed about whether CSX provided cleanup information to the IEPA in a timely manner. *Id.* The court noted, however, that the People identified no other disputed facts or any additional facts that the People would introduce at a penalty hearing. *Id.*

Finding that “the penalty issue was presented to the Board in CSX’s motion for a summary judgment despite the State’s request for a hearing on the issue,” the court held that the Board properly considered whether summary judgment was appropriate on whether to impose a civil penalty. CSX (Fifth Dist.), Order at 5-6. The court then determined that the Board correctly found no genuine issue of material fact concerning penalty. According to the court, the Board had before it “a complete record” of all the facts, including the parties’ correspondence and the timeliness of CSX’s responses to the Agency. *Id.* at 6.

The Fifth District observed in conclusion:

Whether CSX acted diligently and cooperated with the Agency are not ‘questions of material fact’ but conclusions to be drawn by the Board from the undisputed facts. Given the State’s inability to point to any genuine issues of material fact on the question of the imposition of a civil penalty sufficient to preclude a summary judgment on that issue,” the court affirmed the Board. CSX (Fifth Dist.), Order at 6.

## Rulemaking Update

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### **Board Accepts for Hearing and Adopts Non-Substantive First Notice Order in *In the Matter of: City of Galva Site Specific Water Quality Standard for Boron Discharges to Edwards River and Mud Creed: 35 Ill. Adm. Code 303.447 and 303.448 (R09-11)***

On February 5, 2009, the Board accepted for hearing this proposed site-specific rulemaking and authorized the first-notice publication of the proposal without comment on the proposal’s merits. On October 17, 2008, the City of Galva (Galva) filed a proposal seeking to establish a 3.0 milligram per liter (mg/L) alternative boron standard to the generally applicable 1.0 mg/L boron water quality standard in 35 Ill. Adm. Code 302.208(g). The alternative standard for boron would apply to certain segments of an unnamed tributary to the South Branch of the Edwards River, the South Branch of the Edwards River, and the Mud Creek Run. These segments receive discharges from the two Sewage Treatment Plants operated by Galva.

Hearing on the merits and the economic impact of the proposal will be held March 31, 2009 at 11:00 a.m. in the Council Chambers of the Galva City Administration Building, 210 Front Street, Galva. Procedural information about the hearing, including deadlines for the pre-filing of testimony, is contained in a February 19, 2009 hearing officer order.

Copies of the Board’s and hearing officer’s orders may be obtained by calling the Clerk’s office at 312-814-3620, or by downloading copies from the Board’s Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

For additional information contact Marie Tipsord at 312-814-4925; e-mail address [tipsorm@ipcb.state.il.us](mailto:tipsorm@ipcb.state.il.us).

### **Board Accepts IEPA Amendment to Proposal in *In the Matter of: Nitrogen Oxides Emissions From Various Source Categories: Amendments to 35 Ill. Adm. Code Parts 211 and 217 (R08-19)***

The Board, on February 19, 2009, granted the Illinois Environmental Protection Agency’s (IEPA) unopposed motion to amend proposed rulemaking docketed as *In the Matter of: Nitrogen Oxides Emissions From Various*

Source Categories: Amendments to 35 Ill. Adm. Code Parts 211 and 217 (R08-19). On May 9, 2008, the IEPA filed with the Board this rulemaking proposal which proposes amending Parts 211 and 217 of the Board's air pollution regulations (35 Ill. Adm. Code 211, 217) to control nitrogen oxides (NOx) emissions from various source categories, including emission units within these categories such as industrial boilers, process heaters, glass melting furnaces, cement kilns, lime kilns, furnaces used in steelmaking and aluminum melting, and fossil fuel-fired stationary boilers.

The IEPA filed on January 30, 2009 a motion to make 20 amendments to its original proposal. The IEPA stated that it has negotiated with participants on a number of issues that arose during the proceedings. The IEPA proposed extending compliance deadlines, allowing for nonapplicability of emission limits during startup and idling of glass melting furnaces, extending the deadline for installing and operating continuous emission monitoring systems, and revising the emission limitation for electrical generating units firing solid fuel. The Board accepted the proposal for hearing on June 5, 2008. The Board held hearings on October 14, 2008, December 9 and 10, 2008 and on February 3, 2009. In its February 19 2009 order, the Board also granted the IEPA's January 20, 2009 motion to correct the transcripts of the hearing held on December 9 and 10, 2008. Under a February 19, 2009 hearing officer order, March 23, 2009 is the deadline for submission of post-hearing comments for consideration by the Board in developing any first notice rule order based on the IEPA proposal.

Copies of the Board's and hearing officer's orders may be obtained by calling the Clerk's office at 312-814-3620, or by downloading copies from the Board's Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

For additional information contact Tim Fox at 312-814- 6085; e-mail address [foxt@ipcb.state.il.us](mailto:foxt@ipcb.state.il.us).

**Board Accepts IEPA Amendment to Proposal in In the Matter of: Air Quality Standards Clean-Up: Amendments to 35 Ill. Adm. Code Part 243 (R09-19)**

On February 19, 2009, the Board granted the Illinois Environmental Protection Agency's (IEPA) unopposed motion to amend the rulemaking proposal docketed as In the Matter of: Air Quality Standards Clean-Up: Amendments to 35 Ill. Adm. Code Part 243 (R09-19). On January 20, 2009, the IEPA filed a motion to amend this rulemaking proposal which was originally filed on December 1, 2008.

The IEPA stated that the proposed amendment was needed to include in Part 243 a new National Ambient Air Quality Standard (NAAQS) for lead recently adopted by the United States Environmental Protection Agency (USEPA). Specifically, the amendment adds language replacing the existing air quality standard for lead with the new NAAQs of "0.15 micrograms per cubic meter, as determined as a maximum rolling three month average evaluated over a three year period." The amendment also adds language providing that measurements by the atomic absorption spectrometry or equivalent method described in the Code of Federal Regulations (CFR) must be used to determine compliance with the new standard. Finally, the amendment includes material incorporated by reference a citation to the CFR codifying the new standard.

The Board will hold the rescheduled first hearing on the IEPA's amended proposal on March 10, 2009 at 9:00 a.m. in Room 11-512 of the James R. Thompson Center, 100. W. Randolph, Chicago. Procedural information about the hearing, including deadlines for the pre-filing of testimony, is contained in a January 30, 2009 hearing officer order.

Copies of the Board's and hearing officer's orders may be obtained by calling the Clerk's office at 312-814-3620, or by downloading copies from the Board's Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

For additional information contact Tim Fox at 312-814- 6085; e-mail address [foxt@ipcb.state.il.us](mailto:foxt@ipcb.state.il.us).

**Board Dismisses Five Identical in Substance Rulemaking Dockets As Unnecessary For Update Period July 1, 2008 through December 31, 2008**

Every six months the Board reserves a series of dockets for adoption of Board rules to accommodate any rules adopted by the United States Environmental Protection Agency (USEPA) to implement various programs. On February 19, 2009, the Board dismissed as unnecessary five dockets reserved to consider rules adopted by the USEPA during the period of July 1, 2008 through December 31, 2008. In each of the five program areas described below, USEPA adopted no rules during the update period.

**Safe Drinking Water Act (SDWA) (R09-13).** Section 17.5 of the Environmental Protection Act (Act) (415 ILCS 5/17.5 (2006)) requires the Board to adopt regulations that are "identical in substance," as defined at Section 7.2 of the Act, to the National Primary Drinking Water Regulations (NPDWRs) adopted by the United States Environmental Protection Agency (USEPA). These regulations implement sections 1412(b), 1414(a), and 1445(a) of the Safe Drinking Water Act, 42 U.S.C §§ 300g-1(b), 300g-3(c), 300g-6(a) & 300j-4(a) (2005). USEPA has codified its SDWA regulations at 40 C.F.R. 141 through 143.

**Underground Injection Control (UIC) Program (R09-14).** Section 13(c) of the Act (415 ILCS 5/13(c) (2006)) requires the Board to adopt regulations that are "identical in substance" to USEPA regulations. 415 ILCS 5/7.2 (2006). Specifically, Section 13(c) relates to UIC regulations that USEPA adopted to implement provisions of the Safe Drinking Water Act (42 U.S.C §§ 300h *et seq.* (2005)). USEPA has codified its UIC regulations at 40 C.F.R 144 through 148.

**Resource Conservation and Recovery Act (RCRA) Subtitle D (R09-15).** Section 22.40(a) of the Act (415 ILCS 5/22.40(a) (2006)) requires the Board to adopt regulations that are “identical in substance” to USEPA regulations. 415 ILCS 5/7.2 (2006). Specifically, Section 22.40(a) relates to municipal solid waste landfill (MSWLF) regulations that USEPA adopted to implement Subtitle D of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6941-6949 (2005)). USEPA has codified the federal MSWLF rules at 40 C.F.R. 258.

**Underground Storage Tank (UST) (R09-17).** Section 22.4(d) of the Act (415 ILCS 5/22.4(d) (2002)) requires the Board to adopt regulations that are “identical in substance” to USEPA regulations. 415 ILCS 5/7.2 (2006). Specifically, Section 22.4(d) relates to UST regulations promulgated by the USEPA pursuant to Section 9003 of RCRA (42 U.S.C. §§ 6991b (2005)) to implement Subtitle I of RCRA (42 U.S.C. §§ 6991 *et. Seq.* (2005)), with certain limitations. USEPA has codified its UST regulations at 40 C.F.R. 280 through 282.

**Wastewater Pretreatment (R09-18).** Sections 7.2 and 13.3 of the Act (415 ILCS 5/7.2 and 13.3 (2006)) require the Board to adopt regulations that are “identical in substance” to USEPA regulations. 415 ILCS 5/7.2 (2006). Specifically, Section 13.3 relates to wastewater pretreatment regulations that the USEPA adopted to implement Sections 307(b), (c), and (d) and 402(b)(8) and (b)(9) of the Federal Water Pollution Control Act (33 U.S.C. §§ 1317(b), (c), and (d) and 1342(b)(8) and (b)(9) (2006)). USEPA has codified the federal wastewater pretreatment rules at 40 C.F.R. 400 through 499.

Copies of the Board’s dismissal orders may be obtained by calling the Clerk’s office at 312-814-3620, or by downloading copies from the Board’s Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

For additional information contact Mike McCambridge at 312-814-6924; e-mail address [mccambm@ipcb.state.il.us](mailto:mccambm@ipcb.state.il.us).

## Board Actions

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**February 5, 2009**

**Chicago, Illinois**

### Rulemakings

- |               |   |              |
|---------------|---|--------------|
| <b>R09-10</b> | <u>In the Matter of: Amendments to 35 Ill. Adm. Code 225: Control of Emissions From Large Combustion Sources (Mercury Monitoring)</u> – The Board granted the Illinois Environmental Protection Agency’s motion to file a single copy of documents incorporated by reference.   | 5-0<br>Air   |
| <b>R09-11</b> | <u>In the Matter of: Proposed Site Specific Rule Applicable to the City of Galva Sewage Treatment Plants Discharge to Edwards River and Mud Run Creek, 35 Ill. Adm. Code 302.208(g)</u> – The Board accepted for hearing petitioner’s October 17, 2008 proposal to amend the Board’s water quality standards regulations. The Board granted petitioner’s motion to waive requirement to submit 200 signatures. The Board authorizes first-notice publication of the proposal without comment on the proposal’s merits, but denied the motion for expedited consideration. | 5-0<br>Water |

### Adjusted Standards

- |                |  |             |
|----------------|--|-------------|
| <b>AS 09-2</b> | <u>In the Matter of: Petition of Maximum Investments, LLC for an Adjusted Standard from 35 Ill Administrative Code 740.210(a)3 for the Stoney Creek Landfill, Palos Hills, Il.</u> – The Board granted petitioner’s motion to reconsider the December 18, 2008 dismissal order. The Board reinstated the original petition and accepted the amended petition filed by the petitioner’s attorneys, but directed briefing of an authority issue under a schedule to be set by the hearing officer. | 5-0<br>Land |
|----------------|--|-------------|

### Administrative Citations

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<b>AC 09-14</b>	<u>IEPA v. Reynolds Service Co.</u> – The Board denied respondent’s motion to reconsider and vacate the Board’s December 4, 2008 and December 18, 2008 orders.	5-0
<b>AC 09-29</b>	<u>IEPA v. Richard and Kelly Harp</u> – The Board found that these Mason County respondents violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1),(p)(7) (2006)), and ordered respondent to pay a civil penalty of \$3,000.	5-0
<b>AC 09-30</b>	<u>IEPA v. William Collander and Lynn Harris</u> – The Board found that these Mason County respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2006)), and ordered respondent to pay a civil penalty of \$1,500.	5-0
<b>AC 09-31</b>	<u>IEPA v. William and Patricia Hajek</u> – The Board granted complainant’s motion for withdrawal of this administrative citation and closed the docket.	5-0

### Adjudicatory Cases

<b>PCB 08-51</b>	<u>People of the State of Illinois v. Highland Baking Company</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 Cook County facility, the Board ordered publication of the required newspaper notice.	A-E 5-0
<b>PCB 09-44</b>	<u>Apollo Plastics Corporation v IEPA</u> The Board accepted for hearing petitioner’s amended petition in this permit appeal involving a Cook County facility.	5-0 P-A, Air
<b>PCB 09-45</b>	<u>Jerrald R. West II v. Nakomis Quarry Company</u> – The Board ordered complainant to file proof of service of the complaint on Nokomis Quarry or its authorized agent, on or before March 9, 2009, or the complaint would be subject to dismissal.	5-0 A-E
<b>PCB 09-46</b>	<u>Prairie Rivers Network and Sierra Club v. Illinois Environmental Protection Agency and Sugar Camp Energy, L.L.C.</u> – The Board granted Brian A. Glasser leave to appear <i>pro hac vice</i> on behalf of Sugar Camp L.L.C.	5-0 PA, NPDES- 3d P
<b>PCB 09-48</b>	<u>Dynegy Midwest Generation v. IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies, on or before March 9, 2009, or the petition would be subject to dismissal.	5-0 A-V
<b>PCB 09-49</b>	<u>Bugaieski Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Franklin County facility.	5-0 UST Appeal
<b>PCB 09-50</b>	<u>Schrof Service Center v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Livingston County facility.	5-0 UST Appeal
<b>PCB 09-51</b>	<u>Hilltop View LLC – Rushville v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Hilltop View LLC located in Schuyler County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
<b>PCB 09-52</b>	<u>Cedarcrest, LLC – Table Grove v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Cedarcrest, LLC located in Fulton County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	5-0 T-C, W
<b>PCB 09-53</b>	<u>Eagle Point Farms, LLC – Table Grove v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Eagle Point Farms, LLC located in Fulton	5-0 T-C, W

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County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

- PCB 09-54** People of the State of Illinois v. Bill Woods, d/b/a American Asphalt Seal Coating – The Board accepted for hearing this water enforcement action involving a site located in St. Clair County. 5-0  
W-E
- PCB 09-55** Mussmans Back Acres, Inc. - Grant Park v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mussmans Back Acres, Inc. located in Kankakee County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)). 5-0  
T-C, W

### February 19, 2009 Chicago, Illinois

#### Rulemakings

- R08-19** In the Matter of: Nitrogen Oxides Emissions From Various Source Categories, Amendments to 35 Ill. Adm. Code Parts 211 and 217 – The Board granted the Illinois Environmental Protection Agency’s motions to correct transcripts and to amend its rulemaking proposal. 5-0  
Air
- R09-13** SDWA Update, USEPA Amendments (July 1, 2008 through December 31, 2008) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its drinking water regulations during the update period of July 1, 2008 through December 31, 2008. 5-0  
PWS
- R09-14** UIC Update, USEPA Amendments (July 1, 2008 through December 31, 2008) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its underground injection control regulations during the update period of July 1, 2008 through December 31, 2008. 5-0  
Land
- R09-15** RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (July 1, 2008 through December 31, 2008) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its municipal solid waste landfill regulations during the update period of July 1, 2008 through December 31, 2008. 5-0  
Land
- R09-17** UST Update, USEPA Amendments (July 1, 2008 through December 31, 2008) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its underground storage tank regulations during the update period of July 1, 2008 through December 31, 2008. 5-0  
Land

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<b>R09-18</b>	<u>Wastewater Pretreatment Update, USEPA Amendments (July 1, 2008 through December 31, 2008)</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 wastewater pretreatment regulations during the update period of July 1, 2008 through December 31, 2008.	5-0 Water
<b>R09-19</b>	<u>In the Matter of Air Quality Standards Clean-up: Amendments to 35 Ill. Adm. Code Part 243</u> – The Board granted the Illinois Environmental Protection Agency’s motion to amend its December 1, 2008 proposal.	5-0 Air

### Administrative Citations

<b>AC 08-28</b>	<u>IEPA v. Joseph Cosentino and Rob Pinski</u> – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2006)) and assessed a penalty of \$4,500. The Board ordered the Clerk of the Board and the Illinois Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent. Respondent may respond to the cost statement within 21 days of service.	5-0
<b>AC 09-2</b>	<u>IEPA v. Theodore &amp; Elizabeth Hollenbeak and Hollenbeak Concrete, Inc.</u> – The Board granted respondents’ motion to dismiss their petition for review. The Board found that these respondents violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2006)) and assessed a penalty of \$4,500 in this administrative citation involving a Brown County facility.	5-0
<b>AC 09-24</b>	<u>IEPA v. Quinn &amp; Glenna Hunley</u> – The Board accepted for hearing respondents’ amended petition for review in this administrative citation involving a Edwards County facility.	5-0

### Adjudicatory Cases

<b>PCB 96-76</b>	<u>People of the State of Illinois v. Chemetco, 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 Madison County facility, the Board ordered publication of the required newspaper notice.	5-0 L-E
<b>PCB 06-181</b>	<u>People of the State of Illinois v. Quad-County Ready Mix Corporation</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 land enforcement action involving a St.Clair County facility, the Board ordered publication of the required newspaper notice.	5-0 A,L-E
<b>PCB 07-70</b>	<u>People of the State of Illinois v. J. B. Timmermann Farms, Ltd.,</u> – The Board granted complainant’s motion to strike affirmative defenses.	5-0 W-E
<b>PCB 07-144</b>	<u>People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois v. Mick Morfey</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 Carroll County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
<b>PCB 09-29</b>	<u>People of the State of Illinois v. Kaplan Development and Investment Company</u> – In this water enforcement action concerning a St. Clair 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) (2006)),	5-0 W-E

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accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$5,000, and to cease and desist from further violations.

<b>PCB 09-46</b>	<u>Prairie Rivers Network and Sierra Club v. Illinois Environmental Protection Agency and Sugar Camp Energy, L.L.C.</u> – The Board granted Jonathan D. Boggs leave to appear <i>pro hac vice</i> on behalf of Sugar Camp L.L.C.	5-0 PA, NPDES- 3d P
<b>PCB 09-56</b>	<u>People of the State of Illinois v. Brent Speckhart, d/b/a Brent Speckhart Swine Farm</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.	5-0 W-E
<b>PCB 09-57</b>	<u>Bailey Enterprises, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Edwards County facility.	5-0 UST Appeal
<b>PCB 09-58</b>	<u>Marathon Petroleum Company, LLC, Crude Unit Off-Gas Handling System</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Petroleum Company, LLC 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 (2006)).	5-0 T-C, A
<b>PCB 09-59</b>	<u>Marathon Petroleum Company, LLC Ultra-low NOx Burners for HF Alky Isostripper Reboiler Heater (Property ID No. 51-34-021-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Petroleum Company, LLC 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 (2006)).	5-0 T-C, A

## New Cases

### February 5, 2009 Board Meeting

**09-49** Bugaieski Oil Company v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Franklin County facility.

**09-50** Schrof Service Center v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Livingston County facility.

**09-51** Hilltop View LLC – Rushville v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Hilltop View LLC located in Schuyler County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

**09-52** Cedarcrest, LLC – Table Grove v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Cedarcrest, LLC located in Fulton County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

**09-53** Eagle Point Farms, LLC – Table Grove v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Eagle Point Farms, LLC located in Fulton County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

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**09-54** People of the State of Illinois v. Bill Woods, d/b/a American Asphalt Seal Coating – The Board accepted for hearing this water enforcement action involving a site located in St. Clair County.

**09-55** Mussmans Back Acres, Inc. - Grant Park v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mussmans Back Acres, Inc. located in Kankakee County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).

**AC 09-33** IEPA v. David Swearingen – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Coles County facility.

### February 19, 2009 Board Meeting

**09-56** People of the State of Illinois v. Brent Speckhart, d/b/a Brent Speckhart Swine Farm – 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.

**09-57** Bailey Enterprises, Inc. v. IEPA – The Board accepted for hearing this underground storage tank appeal involving an Edwards County facility.

**09-58** Marathon Petroleum Company, LLC, Crude Unit Off-Gas Handling System – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Petroleum Company, LLC 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 (2006)).

**09-59** Marathon Petroleum Company, LLC Ultra-low NOx Burners for HF Alky Isostripper Reboiler Heater (Property ID No. 51-34-021-001) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Marathon Petroleum Company, LLC 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 (2006)).

**AC 09-34** IEPA v. Jack Campbell – The Board accepted an administrative citation against this White County respondent.

## Calendar

3/3/09 10:00 AM	R08-09	<u>In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304</u> <b>(Continues until complete or through March 4, 2009)</b>	Michael A. Bilandic Bldg N-505, Fifth Floor 160 LaSalle Chicago
3/5/09 11:00 AM	<b>Illinois Pollution Control Board Meeting</b>		<b>James R. Thompson Center 100 W. Randolph Street Chicago</b>
3/10/09 9:00 AM	R09-19	<u>In the Matter of Air: Quality Standards Clean-up: Amendments to 35 Ill. Adm. Code Part 243</u>	Illinois Pollution Control Board Conference Room 11-512 James R. Thompson Center 100 W. Randolph Street Chicago
3/17/09 10:00 AM	R09-09	<u>In the Matter of: Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)</u> <b>(Continues until complete or through March 18, 2009)</b>	James R. Thompson Center Room 9-040 100 W. Randolph Street Chicago

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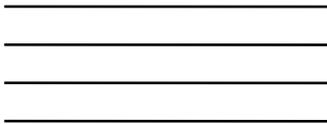
<p><b>3/19/09</b> 11:00 AM</p>	<p><b>Illinois Pollution Control Board Meeting</b></p>		<p><b>James R. Thompson Center</b> <b>100 W. Randolph Street</b> <b>Chicago</b></p>
<p>3/31/09 11:00 AM</p>	<p>R09-11</p>	<p><u>In the Matter of: City of Galva Site Specific Water Quality Standard for Boron Discharges to Edwards River and Mud Creek: 35 Ill. Adm. Code 303.447 and 303.448</u></p>	<p>Council Chambers City Administration Building 210 Front Street Galva</p>
<p><b>4/2/09</b> 11:00 AM</p>	<p><b>Illinois Pollution Control Board Meeting</b></p>		<p><b>Videoconference</b>  <b>James R. Thompson Center</b> <b>100 W. Randolph Street</b> <b>Chicago</b> <b>And</b> <b>Illinois Pollution Control Board Hearing Room (1244 N, First Floor)</b> <b>1021 N. Grand Avenue East (North Entrance)</b> <b>Springfield</b></p>
<p><b>4/16/09</b> 11:00 AM</p>	<p><b>Illinois Pollution Control Board Meeting</b></p>		<p><b>Videoconference</b>  <b>James R. Thompson Center</b> <b>100 W. Randolph Street</b> <b>Chicago</b> <b>And</b> <b>Illinois Pollution Control Board Hearing Room (1244 N, First Floor)</b> <b>1021 N. Grand Avenue East (North Entrance)</b> <b>Springfield</b></p>
<p>4/21/09 9:00 AM</p>	<p>PCB 07-146</p>	<p>Fox Moraine, LLC v. United City of Yorkville, City Council: Kendall County, Intervenor <b>(continues until complete or through April 23, 2009)</b></p>	<p>United City of Yorkville Public Library Meeting Room 902 Game Farm Road Yorkville</p>



The Illinois Pollution Control Board is an independent five-member board that adopts environmental control standards, rules on enforcement actions, and other environmental disputes for the State of Illinois.

The *Environmental Register* is published monthly by the Board, and contains updates on rulemakings, descriptions of final decisions, the Board's hearing calendar, and other environmental law information.

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