

# ILLINOIS POLLUTION CONTROL BOARD

## MEETING MINUTES

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**November 5, 2009**

**Chicago Office**

100 W. Randolph Street  
Chicago, IL

**Room 9-040**

**11:00 a.m.**

### **ANNOUNCEMENTS**

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Chairman Girard welcomed members of the public and staff.

### **ROLL CALL**

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The Assistant Clerk of the Board called the roll. All five Board Members answered present. Chairman Girard announced that Member Shundar Lin will be leaving the Board November 15, 2009. The Chairman expressed the Board's gratitude for Dr. Lin's service to the Board over the past year. His engineering background and attention to detail have been great assets. The Chairman wished Dr. Lin well in his next endeavors.

### **APPROVAL OF MINUTES**

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The minutes of the October 15, 2009 open meeting and October 29, 2009 closed deliberative session were approved by a vote of 5-0.

## RULEMAKINGS

<b>R 06-22</b>	<u>In the Matter of: NOx Trading Program: Amendments to 35 Ill. Adm. Code Part 217</u> – No action taken.	Air
<b>R09-9</b>	<u>In the Matter of: Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)</u> – The Board granted the Illinois Environmental Protection Agency’s unopposed motion for partial stay of the R09-9 TACO rulemaking. Specifically, this is a 12-month stay of the portion of the rulemaking that pertains to vapor intrusion.	5-0 Land
<b>R10-10</b>	<u>In the Matter of: Reasonably Available Control Technology (RACT) for Volatile Organic Material Emissions From Group III Consumer &amp; Commercial Products: Proposed Amendments to 35 Il. Adm. Code 218 and 219</u> – The Board accepted for hearing the Illinois Environmental Protection Agency’s October 23, 2009 proposal to amend the Board’s air regulations under the fast track rulemaking procedures of Section 28.5 of the Act. The Board granted petitioner’s motion to waive specified copy requirement. The Board authorized first-notice publication of the proposal without comment on the proposal’s merits, and directed the hearing officer to set hearings under the fast track timetable.	5-0 Air

## ADJUSTED STANDARDS

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NONE

## ADMINISTRATIVE CITATIONS

<b>AC 9-2</b>	<u>IEPA v. Bradley &amp; Carol Corzine</u> – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Union County facility, the Board found that respondents had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2008)) and ordered respondents to pay a civil penalty of \$1,500. The Board also dismissed respondents’ petition for review and the alleged violation of 415 ILCS 5/21(p) (7) (2008).	5-0
<b>AC 10-2</b>	<u>IEPA v. City of Salem, John Pruden, Jason Bruce, and Lee Owens</u> – The Board dismissed this administrative citation for failure to serve respondents the citation within 60 days after the date of the observed violation.	5-0

<b>AC 10-4</b>	<u>County of Ogle v. Kathy Knutson, Steve Knutson, and Dan Bocker</u> – No action taken.	
<b>AC 10-5</b>	<u>County of Jackson v. Gary Clover</u> – The Board accepted an administrative citation against this Jackson County respondent.	

### ADJUDICATORY CASES

<b>PCB 97-193 PCB 04-207</b>	<u>People of the State of Illinois v. Community Landfill Company, Inc.</u> <u>People of the State of Illinois v. Edward Pruum and Robert Pruum</u> – The Board denied respondents’ motions to reconsider its August 20, 2009 opinion and order.	5-0 L-E
<b>PCB 03-191</b>	<u>People of The State of Illinois v. Community Landfill Company, Inc. and City of Morris</u> – The Board denied in their entirety both respondents’ motions for stay of the Board’s June 18, 2009 order, after granting the City’s motion for leave to file a reply instanter.	5-0 L-E
<b>PCB 06-144</b>	<u>People of the State of Illinois v. Golden Bag Company</u> – In this air enforcement action concerning a Kane 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)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$20,000, and to cease and desist from further violations.	5-0 A-E

<p><b>PCB 06-159</b></p>	<p><u>People of the State of Illinois v. Gary Simmons, individually, and Lawrence County Disposal Centre, Inc.,</u> – In this order, the Board ordered the Lawrence County Disposal Centre, Inc. (Disposal Centre) to pay an additional \$32,164 which is the time use value of \$118,421.90 to recoup the economic benefit earned through non-compliance. The Board ordered the Gary Simmons to pay an additional \$3,573 which is the time use value of \$118,421.90 to recoup the economic benefit earned through non-compliance. The Board also ordered respondents to reimburse complainant for legal costs of \$1,540. The Board previously, in an interim opinion and order dated July 23, 2009, the Board found that respondents had violated Sections 9(a), 21(d)(1) and (d)(2), and 22.17(a) and (b) of the Environmental Protection Act (415 ILCS 5/9(a), 21 (d)(1) and (d)(2), and 22.17(a) and (b) (2008)), 35 Ill. Adm. Code 745.201(b); 811.109(a); 811.111(c)(1)(A), (c)(2), and (c)(5); 811.310(c); 811.312(c); 811.315(e)(1)(G); 811.319(a), (a)(1), (a)(2), and (a)(3); 811 .320(d)(1); 813.501; and 813.502(a) of the Boards regulations. The Board assessed civil penalties of \$10,000 against Disposal Centre and \$1,000 against Gary Simmons individually.</p>	<p>5-0 L-E</p>
<p><b>PCB 07-44</b></p>	<p><u>Indian Creek Development Company and the Chicago Title and Trust Company v. The Burlington Northern Santa Fe Railway Company</u> – No action taken.</p>	<p>L, W-E, Citizens</p>
<p><b>PCB 07-47</b></p>	<p><u>People of the State of Illinois v. City of Pekin</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 Tazewell County facility, the Board ordered publication of the required newspaper notice.</p>	<p>5-0 L -E</p>
<p><b>PCB 07-63</b></p>	<p><u>PMA &amp; Associates, Inc. v. IEPA</u> – No action taken.</p>	<p>UST Appeal</p>
<p><b>PCB 07-68</b></p>	<p><u>People of the State of Illinois v. Chippewa Loft, LLC</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 Madison County facility, the Board ordered publication of the required newspaper notice.</p>	<p>5-0 A -E</p>

<b>PCB 07-70</b>	<u>People of the State of Illinois v. J. B. Timmermann Farms, Ltd.</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 Clinton County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
<b>PCB 08-7</b>	<u>People of the State of Illinois, ex rel. Lisa Madigan, Attorney General of the State of Illinois v. Union Pacific Railroad Company</u> – No action taken.	W-E
<b>PCB 08-86</b>	<u>City of Quincy v. IEPA</u> – No action taken.	P-A, Water
<b>PCB 08-96</b>	<u>United City of Yorkville v. Hamman Farms</u> – No action taken.	A,L,W-E
<b>PCB 08-103</b>	<u>KCBX Terminals Company v. IEPA</u> – The Board granted this Cook County facility’s motion for voluntary dismissal of this permit appeal.	5-0 P-A, Air
<b>PCB 09-40</b>	<u>People of the State of Illinois v. Illinois Valley Paving Company, Inc.</u> – In this air enforcement action concerning a Peoria County facility, the Board granted complainant’s motion for voluntary dismissal of count II of the complaint and relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2006)), accepted a stipulation and settlement agreement. The Board ordered respondent to pay a total civil penalty of \$20,000, and to cease and desist from further violations.	5-0 W-E
<b>PCB 09-66</b>	<u>Elmhurst Memorial Healthcare and Elmhurst Memorial Hospital v. Chevron U.S.A., Inc.</u> – No action taken.	Citizens, L-E
<b>PCB 09-67</b>	<u>Prime Location Properties, LLC v. IEPA</u> – The Board ordered the Illinois Environmental Protection Agency (Agency) to reimburse petitioner for legal costs of \$10,088.18 from the Underground Storage Fund. The Board previously, in an interim opinion and order dated August 20, 2009, denied petitioner’s motion requesting sanctions against the Agency and the Agency’s motion to dismiss. The Board also reversed the Agency’s January 27, 2009 determination and remanded the matter to the Agency to undertake actions consistent with its opinion.	5-0 UST Appeal
<b>PCB 09-102</b>	<u>Peter Arendovich v. the Illinois State Toll Highway Authority</u> – No action taken.	Citizens, N-E

<b>PCB 09-104</b>	<u>People of the State of Illinois v. Village of Rockton</u> – No action taken.	W-E
<b>PCB 10-9</b>	<u>People of the State of Illinois v. Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Archer Daniels Midland, Inc., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., Combe Laboratories, Inc., General Electric Railcar Services Corporation, P &amp; H Manufacturing, Inc., Trinity Rail Group, Inc., Tripple S Refining Corporation and Zexel Illinois, Inc</u> – No action taken.	L-E
<b>PCB 10-12</b>	<u>People of the State of Illinois v. Hicks Oils &amp; Hicksgas, Inc.</u> – No action taken.	W-E
<b>PCB 10-13</b>	<u>Jon Chualovsky v. Commonwealth Edison</u> – No action taken.	Citizens, N-E
<b>PCB 10-23</b>	<u>United States Steel Corporation, a Delaware corporation v. IEPA</u> – No action taken.	P-A, Air
<b>PCB 10-25</b>	<u>Currier Farms v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Currier Farms located in Bureau County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2008)).	5-0 T-C, W
<b>PCB 10-26</b>	<u>Warrenville/Phillips Petroleum Company v. IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies on or before December 7, 2009, or the petition would be subject to dismissal.	5-0 UST Appeal
<b>PCB 10-27</b>	<u>Lockport/ConocoPhillips v. IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies on or before December 7, 2009, or the petition would be subject to dismissal.	5-0 UST Appeal
<b>PCB 10-28</b>	<u>New Horizon Pork, LLC - Roanoke v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of New Horizon Pork, LLC 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 (2008)).	5-0 T-C, W

<b>PCB 10-29</b>	<u>People of the State of Illinois v. Waste Management of Illinois, Inc., a subsidiary of Waste Management, Inc.</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 Knox County facility, the Board accepted the case and ordered publication of the required newspaper notice.	5-0 W-E
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**CASES PENDING DECISION**

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**OTHER ITEMS**

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**ADJOURNMENT**

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Moved and seconded, by a vote of 5-0, Chairman Girard adjourned the meeting at 11:37 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on November 19, 2009, by a vote of 4-0, Member Zalewski abstained.



John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board