

DRAFT ILLINOIS POLLUTION CONTROL BOARD MEETING MINUTES



JUNE 6, 2002
SPRINGFIELD OFFICE-600 South Second Street
SUITE 403
11:00 A.M.

ANNOUNCEMENTS

After calling the meeting to order, Chairman Manning welcomed members of the public and staff to the meeting.

ROLL CALL

The Clerk of the Board called the roll and all Board Members answered present.

APPROVAL OF MINUTES

Minutes of the May 16, 2002 meeting were approved by a vote of 7-0.

RULEMAKINGS

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| R02-19 | <u>In the Matter of: Proposed Amendments to Ammonia Nitrogen Standards 35 Ill. Adm. Code 302.212, 302.213, and 304.122</u> – The Board adopted a first notice opinion and order in this matter to amend the Board’s water regulations. | 7-0 R, Water |
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ADJUSTED STANDARDS

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| AS 00-5 | <u>In the Matter of: Petition of the Ensign-Bickford Company for an Adjusted Standard from 35 Ill. Adm. Code 237.103</u> – The Board granted petitioner’s request for hearing on its petition for an adjusted standard. | 7-0 Air |
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| AS 02-1 | <u>In the Matter of: Material Service Corporation Petition for an Adjusted Standard from 35 Ill. Adm. Code 302.208, 406.202, and 304.105</u> – The Board granted this Cook County facility an adjusted standard from the mine waste effluent and water quality standard under 35 Ill. Adm. Code 304.105 and 406.202, subject to conditions. | 6-0 Melas abstained Water |
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| AS 02-5 | <u>In the Matter of Petition of Noveon, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 304.122</u> – No action taken. | Water, NPDES |
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ADMINISTRATIVE CITATIONS

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| AC 01-29 AC 01-30 (Cons.) | <u>IEPA v. Leslie Yocum, Sandra Yocum, Rick L. Yocum, and Shawna B. Yocum (Birmingham/Yocum #1); IEPA v. Leslie Yocum and Sandra Yocum (Birmingham/Yocum #2)</u> – The Board entered an interim opinion and order finding respondents violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2000)) and assessing a penalty of \$6,000. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondents. | 5-2 Girard and Johnson dissented |
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| AC 01-42 | <u>IEPA v. Alan Smith</u> – The Board entered an interim opinion and order finding respondent violated Section 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(3) (2000)) and assessing a penalty of \$1,500. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent. | 7-0 |
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| AC 02-16 | <u>IEPA v. Brad Krstic</u> – The Board entered an interim opinion and order finding respondent violated Section 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(3) (2000)) and assessing a penalty of \$1,500. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent. | 7-0 |
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| AC 02-54 | <u>IEPA v. Rayetta Thompson</u> – The Board granted complainant’s motion for voluntary dismissal of this administrative citation involving a Union County facility. | 7-0 |
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| AC 02-55 | <u>IEPA v. Barbara Buck</u> – The Board granted complainant’s motion for voluntary dismissal of this administrative citation involving a Dewitt County facility. | 7-0 |
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| AC 02-56 | <u>City of Chicago Department of Environment v. City Wide Disposal, Inc.</u> – The Board accepted an administrative citation against this | |
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Cook County respondent.

AC 02-57 City of Chicago Department of Environment v. City Wide Disposal, Inc. - The Board accepted an administrative citation against this Cook County respondent.

AC 02-58 IEPA v. RCS, Inc. and Robert Fosnock – The Board accepted an administrative citation against these Jersey County respondents.

AC 02-59 IEPA v. Jason Hari and Canadian National/Illinois Central Railroad – The Board accepted an administrative citation against these Ford County respondents.

Decisions

PCB 00-219 Stephen G. Brill v. Henry Latoria, individually and d/b/a TL Trucking Foodliner – The Board found that respondent violated Sections 9(a) and 24 of the Environmental Protection Act (415 ILCS 5/9(a), 24 (2000)), and Section 900.102 of the Board regulations (35 Ill. Adm. Code 900.102). Respondent was ordered to retain the assistance of a noise expert and prepare a report detailing what steps can be taken to alleviate the noise and air emissions reaching complainant’s residence.

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Johnson concurred
Citizens
N&A-E

PCB 02-84 People of the State of Illinois v. Bill Palmer d/b/a Commercial Group, Frank Glosky d/b/a Glosky Realty, and R.A.S. Development, Inc. – In this water enforcement action concerning a Morgan 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) (2000)), accepted a final stipulation and settlement agreement, ordered the respondents to pay a total civil penalty of \$50,000, and to cease and desist from further violations.

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PCB 02-198 People of the State of Illinois v. Olin Corporation – In this Resource Conservation and Recovery Act 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) (2000)), accepted a final stipulation and settlement agreement, ordered the respondent to pay a total civil penalty of \$50,000, and to cease and

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RCRA-E

desist from further violations.

ADJUDICATORY CASES

Motions and Other Matters

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| PCB 97-66 | <u>People of the State of Illinois v. D'Angelo Enterprises, Inc.</u> – No action taken. | RCRA-E |
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| PCB 97-113 | <u>People of the State of Illinois v. Homin Lee d/b/a Meisel Plating</u> – No action taken. | RCRA-E |
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| PCB 97-162 | <u>Swearingin Services, Inc. v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of these underground storage tank appeals involving a Jersey County facility. | 7-0 |
| PCB 97-163 | | UST |
| PCB 97-164 | | Appeals |
| PCB 97-165 | | |
| PCB 97-204 | | |
| Consol. | | |

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| PCB 98-88 | <u>Illinois State Toll Highway Authority v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of certain underground storage tank appeals involving a Jersey County facility. Future orders will only contain the docket numbers for the remaining cases: PCB 98-115; PCB 98-136; PCB 99-56; PCB 00-51; PCB 00-52; and PCB 00-89. | 7-0 |
| PCB 98-115 | | UST |
| PCB 98-124 | | Appeals |
| PCB 98-125 | | |
| PCB 98-132 | | |
| PCB 98-133 | | |
| PCB 98-134 | | |
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| PCB 00-52 | | |
| PCB 00-89 | | |
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| PCB 99-120 | <u>People of the State of Illinois v. Wood River Refining Company</u> – No action taken. | A-E |
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| PCB 99-134 | <u>People of the State of Illinois v. Peabody Coal Company</u> – No | W-E |
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action taken.

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| PCB 00-70 | <u>E.G. Vogt Oil Company, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a St. Clair County facility. | 7-0 UST Fund |
| PCB 00-74 | <u>Freeburg Investors Group, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a St. Clair County facility. | 7-0 UST Fund |
| PCB 00-76 | <u>East Side Acquisitions v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a St. Clair County facility. | 7-0 UST Fund |
| PCB 00-92 | <u>Stephen M. Lardner v. Dominick’s Finer Foods, Inc., The Landowner of Longmeadow Commons, Waste Management, and Mundelein Disposal</u> – The Board granted complainant’s motion for voluntary dismissal of this citizen’s noise enforcement action involving a Lake County facility. | 7-0 Citizens N-E |
| PCB 00-94 | <u>Linneman Oil Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Monroe County facility. | 7-0 UST Fund |
| PCB 00-111 | <u>People of the State of Illinois v. R. Frietsch & Company, Inc.</u> – No action taken. | A-E |
| PCB 00-139 | <u>L. Wolf Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Madison County facility. | 7-0 UST Fund |
| PCB 00-141 | <u>E.G. Vogt Oil Company, Inc. v. IEPA</u> – No action taken. | UST Fund |
| PCB 00-227 | <u>People of the State of Illinois v. Goelitz Confectionery Company and Goelitz Confectionery Export Company, 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 enforcement action involving a Lake County facility, the Board | 7-0 A-E |

ordered publication of the required newspaper notice.

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| PCB 01-17 | <u>People of the State of Illinois v. N.E. Finch Company and Peoria Associates</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 Peoria County facility, the Board ordered publication of the required newspaper notice. | 7-0 A-E |
| PCB 01-77 | <u>Village of Park Forest v. Sears, Roebuck & Company</u> – The Board denied respondent’s motion for summary judgment and ordered this matter to proceed to hearing. | 7-0 Citizens UST-E |
| PCB 01-123 | <u>Waste Management of Illinois, Inc. d/b/a Waste Management of Peoria v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Tazewell County facility. | 7-0 UST Appeal |
| PCB 01-139 | <u>ESG Watts, Inc. v. IEPA</u> – Having received a petition for review filed in the Fourth District Appellate Court by petitioner, the Board declined to consider respondent’s motion for reconsideration of its April 4, 2002 opinion and order, as this matter is no longer before the Board. | 7-0 P-A, Land |
| PCB 01-144 | <u>People of the State of Illinois v. Richard Williams d/b/a C.R. Williams & Associates, Architects</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 Christian County facility, the Board ordered publication of the required newspaper notice. | 7-0 PWS-E |
| PCB 01-161 | <u>People of the State of Illinois v. Wagner Castings 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 Macon County facility, the Board ordered publication of the required newspaper notice. | 7-0 A-E |
| PCB 01-173 | <u>Cole Taylor Bank under Trust #40323, as successor trustee to Michigan Avenue National Bank of Chicago, under Trust #1904 v. Rowe Industries, Inc., successor to Coleman Cable and Wire</u> | 7-0 Citizens |

Company, and Chapco Carton Company – The Board struck eight of the nine affirmative defenses raised by respondent Chapco, and all seven affirmative defenses raised by respondent Rowe. The Board found that respondents improperly pled affirmative defenses concerning: Sections 31(e) and 33(c) criteria under the Environmental Protection Act (415 ILCS 5/31(e), 33(c) (2000)); act of God; act of third parties; lack of material causation/contribution; and whether any release was permitted by state or federal law. The Board determined that respondents properly raised affirmative defenses concerning *res judicata* and whether the complaint was duplicitous, but found that these defenses were without merit. This matter shall proceed to hearing on the remaining allegations.

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| PCB 02-8 | <u>People of the State of Illinois v. Royster-Clark, Inc.</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 LaSalle County facility, the Board ordered publication of the required newspaper notice. | 7-0 W-E |
| PCB 02-21 | <u>People of the State of Illinois v. J&F Hauling, Inc.</u> – The Board granted complainant’s motion for summary judgment, and found respondent in violation of Sections 21(a), (d)(1) and (2), (e), and (p)(1), and 55(a) of the Environmental Protection Act (415 ILCS 5/21(a),(d)(1) and (2),(e),(p)(1) and 55(a) (2000)) and 35 Ill. Adm. Code 722.11, 808.121, and 812.101(a). The Board directed this matter to hearing on the specific issues of the appropriate penalty amount, costs, and attorney fees. | 7-0 RCRA-E |
| PCB 02-36 | <u>People of the State of Illinois v. City of Golconda, Brown, Roffmann & Roberts, Inc., and Forby Excavating, Inc.</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 Pope County facility, the Board ordered publication of the required newspaper notice. | 7-0 PWS-E |
| PCB 02-41 | <u>Milton and Virginia Kamholz v. Lawrence and Marianne Sporleder</u> – The Board denied complainants’ motion for summary judgment and struck respondents’ affirmative defenses. The Board directed this matter to hearing. | 7-0 Citizens A&N-E |

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| PCB 02-83 | <u>The American Coal Company-Galatia (Landfill) v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this tax certification appeal involving a Saline County facility. | 7-0 T-C |
| PCB 02-96 | <u>Estate of Edmund F. Radkiewicz v. IEPA</u> – No action taken. | UST Appeal |
| PCB 02-109 | <u>Blake Oil Company 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 Ogle County facility. | 7-0 UST Appeal |
| PCB 02-114 | <u>Logan Jones, Ltd. Partnership v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility. | 7-0 UST Fund |
| PCB 02-116 | <u>Rezmar Corporation v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility. | 6-0 Melas abstained UST Fund |
| PCB 02-120 | <u>People of the State of Illinois v. Entler Excavating Company, 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 enforcement action involving a Macon County facility, the Board ordered publication of the required newspaper notice. | 7-0 A-E |
| PCB 02-184 | <u>UAP Richter Company (McDonough County) v. IEPA</u> – The Board accepted for hearing this tax certification appeal involving a McDonough County facility. | 7-0 T-C |
| PCB 02-201 | <u>Gere Properties, Inc. v. Jackson County Board and Southern Illinois Regional Landfill, Inc.</u> – The Board accepted for hearing this third-party pollution control facility siting appeal involving a Jackson County facility. | 7-0 P-C-F-S-R |
| PCB 02-202 | <u>PM Ag Products, Inc. v. IEPA</u> – The Board granted this request for | 7-0 |

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| | a 90-day extension of time to file an underground storage tank appeal on behalf of this Pike County facility. | UST Fund 90-Day Ext. |
| PCB 02-203 | <u>Gallagher Asphalt 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 Cook County facility. | 7-0 UST Fund 90-Day Ext. |
| PCB 02-204 | <u>Illinois State Toll Highway Authority 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 Cook County facility. | 7-0 UST Fund 90-Day Ext. |
| PCB 02-205 | <u>Home Oil Company v. IEPA</u> – The Board granted petitioner’s motion to consolidate this matter with PCB 02-206 and accepted for hearing this underground storage tank appeal involving a St. Clair County facility. | 7-0 UST Fund |
| PCB 02-206 | <u>Home Oil Company v. IEPA</u> – The Board granted petitioner’s motion to consolidate this matter with PCB 02-205 and accepted for hearing this underground storage tank appeal involving a St. Clair County facility. | 7-0 UST Fund |
| PCB 02-207 | <u>Wallace Pharmaceuticals v. IEPA</u> – The Board accepted for hearing this air variance request involving a McDonough County facility. The Board granted petitioner’s motion motion to withdraw motion for expedited review and/or retroactive relief. | 7-0 A-V |
| PCB 02-208 | <u>Brian Finley, Local 3315 of the American Federation of State, County, and Municipal Employees (Cook County Public Defenders Association) and named others v. Acme Barrel Company, Inc. a/k/a Acme Barrel Company, a/k/a IFCO Systems Chicago, Inc. and others</u> – The Board held for a later duplicitous/frivolous determination this citizens’ air enforcement action involving a Cook County facility. | Citizens A-E |
| PCB 02-209 | <u>E.P.M.A. Company v. IEPA</u> – The Board granted this request for a | 7-0 |

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| | 90-day extension of time to file an underground storage tank appeal on behalf of this Cook County facility. | UST Fund 90-Day Ext. |
| PCB 02-210 | <u>Elston/Webster, LP v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility. | 7-0 UST Appeal |
| PCB 02-211 | <u>Stein Steel Mill Services, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Madison County facility. | 7-0 P-A, Air |
| PCB 02-212 | <u>Shearon, 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 McHenry County facility. | 7-0 UST Fund 90-Day Ext. |
| PCB 02-213 | <u>People of the State of Illinois v. Action Athletic Equipment, Inc.</u> – The Board accepted for hearing this permit appeal involving a Lake County facility. | 7-0 A-E |
| PCB 02-214 | <u>Metropolitan Water Reclamation District of Greater Chicago v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Cook County facility. | 7-0 P-A, NPDES |

CASES PENDING DECISION

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| R02-11 | <u>In the Matter of: Water Quality Triennial Review: Amendments to 35 Ill. Adm. Code 302.208(e)-(g), 302.504(a), 302.575(d), 303.444, 309.141(h); and Proposed 35 Ill. Adm. Code 301.267, 301.313, 301.413, 304.120, and 309.157</u> – Proposed Rule, First Notice, Opinion and Order | R, Water |
| PCB 00-90 | <u>Roger L. Young and Roman K. Young v. Glister-Mary Lee Corporation</u> | Citizens N-E |
| PCB 02-159 | <u>The Ensign-Bickford Company v. IEPA</u> | A-V |

OTHER ITEMS

Chairman Manning's motion to change the location of the July 11, 2002 Board meeting from Springfield, Illinois to Chicago, Illinois was granted by a vote of 7-0.

Chairman Manning's motion to cancel the July 25, 2002 Board meeting was granted by a vote of 7-0.

ADJOURNMENT

Moved and seconded, by a vote of 7-0, Chairman Manning adjourned the meeting at 12:15 a.m. to an Executive Session.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on June 6, 2002 by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board