

# ILLINOIS POLLUTION CONTROL BOARD

## MEETING MINUTES

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**August 8, 2013**

**11:00 a.m.**

### **Videoconference**

#### **Chicago**

100 W. Randolph Street  
Chicago, IL  
**Room 11-512**

**And**

#### **Springfield**

1021 N. Grand Avenue East  
Springfield, IL  
**Conference Room 1244 N, First Floor**

### **ANNOUNCEMENTS**

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Member Zalewski welcomed members of the public and staff. Member Zalewski reminded that Chairman Thomas Holbrook had resigned from the Board as of July 1, 2013 after his 18 month tenure as Chairman.

### **ROLL CALL**

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Member Zalewski conducted the meeting, with consensus of all Members, in the absence of a Chairman designated by the Governor. The Clerk of the Board called the roll. All four Board Members answered present.

### **APPROVAL OF MINUTES**

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The minutes of July 25, 2013 open meeting were approved by a vote of 4-0. The minutes of the August 1, 2013 closed deliberative sessions under 5 ILCS 120/2(c)(4) were approved by a vote of 4-0.

**RULEMAKINGS**

NONE

**ADJUSTED STANDARDS**

<b>AS 09-4</b>	<u>In the Matter of: Petition of Royal Fiberglass Pools, Inc. for an Adjusted Standard from 35 IAC 215.301</u> – No action taken.	Air
<b>AS 13-4</b>	<u>In the Matter of: Petition of Brickyard Disposal &amp; Recycling, Inc. Pursuant to 35 Ill. Adm. Code 814.402(b)(3)</u> – The Board accepted the petition for adjusted standard, but directed petitioner to file an amended petition to cure deficiencies on or before September 9, 2013.	4-0 Land
<b>AS 13-5</b>	<u>In the Matter of: Petition of Caterpillar, Inc. for an Adjusted Standard From 35 Ill. Admin. Code 620.410(a) and 817.106(a)</u> – The Board accepted the petition for adjusted standard, but reserved ruling on the motion for expedited decision.	4-0 Water

**ADMINISTRATIVE CITATIONS**

<b>AC 13-42</b>	<u>IEPA v. James &amp; Pam Green</u> – The Board accepted respondents’ amended petition for review, but directed respondents to file a second amended petition to cure deficiencies on or before September 9, 2013.	4-0
<b>AC 13-55</b>	<u>County of Perry v. Union Pacific Railroad Company</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Perry County facility.	4-0
<b>AC 13-56</b>	<u>IEPA v. Gale Hinze, individually and d/b/a Ag Fab LLC</u> – The Board found that this Bureau County respondent violated Sections 55(k)(1) and 55(k)(4) of the Environmental Protection Act (415 ILCS 5/55(k)(1), (k)(4) (2010)), and ordered respondent to pay a civil penalty of \$3,000.	4-0
<b>AC 13-57</b>	<u>County of Perry v. Donald and Pam Keene (Site Code: 1450155055)</u> – The Board found that these Perry County respondents violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(7) (2010)), and ordered respondents to pay a civil penalty of \$3,000.	4-0

<b>AC 13-58</b>	<u>County of Perry v. Donald and Pam Keene (Site Code: 1450155057)</u> – The Board found that these Perry County respondents violated Sections 21(p)(1) and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 55(k)(1) (2010)), and ordered respondents to pay a civil penalty of \$3,000.	4-0
<b>AC 13-59</b>	<u>IEPA v. Donna Cockerill and Mark Johnson</u> – The Board accepted respondents’ petition for review, but directed respondents to file an amended petition to cure deficiencies on or before September 9, 2013.	4-0
<b>AC 13-60</b>	<u>IEPA v. James Harris</u> – No action taken.	
<b>AC 14-3</b>	<u>IEPA v. Thomas and Heather Farris</u> – No action taken.	
<b>AC 14-7</b>	<u>IEPA v. John Croslow d/b/a Croslow's Auto Repair</u> – The Board accepted for hearing respondent’s petition for review of this administrative citation involving a Lawrence County facility.	4-0
<b>AC 14-8</b>	<u>County of Montgomery v. Vernon Weber</u> – The Board accepted an administrative citation against this Montgomery County respondent.	

### ADJUDICATORY CASES

<b>PCB 08-30</b>	<u>E.R. 1, LLC, assignee of Caseyville Sport Choice, LLC v. James A. Seiber, Jr., Executor of the Estate of Erma I. Seiber and James A. Seiber, Deceased, and Fairmount Park, Inc.</u> – No action taken.	L-E, Citizens
<b>PCB 10-61</b> <b>PCB 11-2</b> (cons.)	<u>People of the State of Illinois v. Freeman United Coal Mining Company, LLC and Springfield Coal Company, LLC</u> <u>Environmental Law and Policy Center v Freeman United Coal Mining Company, LLC and Springfield Coal Company, LLC</u> – No action taken.	W-E
<b>PCB 10-84</b>	<u>People of the State of Illinois v. Professional Swine Management, LLC, Hilltop View LLC, Wildcat Farms, LLC, High-Power Pork, LLC, Eagle Point, LLC, Lone Hollow, LLC, Timberline, LLC, Prairie State Gilts, Ltd., North Fork Pork, LLC, Little Timber, LLC, and Twin Valley Pumping, Inc.</u> – No action taken.	L-E

<b>PCB 11-63</b>	<u>Beverly Powers f/d/b/a Dick's Super Service v. IEPA</u> – The Board affirmed the Illinois Environmental Protection Agency’s February 17, 2011 denial of petitioner’s requested fourth Corrective Action Plan budget amendment.	4-0 UST Appeal
<b>PCB 11-76</b>	<u>Warsaw Itco v. IEPA</u> – The Board affirmed the Illinois Environmental Protection Agency’s March 18, 2011 modification of petitioner’s amended Corrective Action Plan budget.	4-0 UST Appeal
<b>PCB 12-94</b> (See also <b>PCB 14-4</b> )	<u>CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA</u> – No action taken.	W-V
<b>PCB 12-101</b>	<u>Phillips 66 Company (f/k/a ConocoPhillips Company) v. IEPA</u> – The Board denied petitioner’s motion for stay pending appeal.	3-0 Burke abstained W-PA, NPDES
<b>PCB 13-15</b>	<u>Sierra Club, Environmental Law and Policy Center, Prairie Rivers Network, and Citizens Against Ruining the Environment v. Midwest Generation</u> – No action taken.	W-E, Citizens
<b>PCB 13-17</b>	<u>Natural Resources Defense Council, Prairie Rivers Network, and Sierra Club v. Illinois Environmental Protection Agency and Dynegy Midwest Generation, Inc.</u> – No action taken.	W-PA, NPDES, 3d P
<b>PCB 13-19</b> <b>PCB 13-20</b> (cons.)	<u>People of the State of Illinois v. Sheridan-Joliet Land Development, LLC, and Sheridan Sand &amp; Gravel Co. (4201 Road Site)</u> – The Board granted respondents’ motions to consolidate PCB 13-19 and PCB 13-20. The Board denied complainant’s motions to strike respondents’ “objections” to the complainant’s motions for leave to file surreplies concerning the motions to strike or dismiss. The Board granted complainant’s motions for leave to file surreplies to respondents’ replies in support of the motions to strike or dismiss. The Board granted complainant’s motions for leave to file surreplies to respondents’ replies in support of the motions to strike or dismiss. The Board denied respondents’ motions to strike the amended notices of filing of the complaints and to strike or dismiss the complaints.	4-0 L-E

<b>PCB 13-22</b>	<u>Mahomet Valley Water Authority, City of Champaign, Illinois, Donald R. Gerard, City of Urbana, Illinois, Laurel Lunt Prussing, City of Bloomington, Illinois, County of Champaign, Illinois, County of Piatt, Illinois, Town of Normal Illinois, Village of Savoy, Illinois and City of Decatur v. Clinton Landfill</u> – No action taken.	L-E, Citizens
<b>PCB 13-28</b>	<u>People of the State of Illinois v. Atkinson Landfill Company</u> – The Board denied respondent’s motion to consolidate PCB 13-28 with PCB 13-60 and 13-61. The Board also denied respondent’s motion for stay. The Board reserved ruling on the other pending motions.	4-0 W-E
<b>PCB 13-37</b>	<u>Texaco, Inc., v. IEPA</u> – The Board granted parties’ motion for voluntary dismissal of this permit appeal.	4-0 UST Appeal
<b>PCB 13-60</b>	<u>People of the State of Illinois v. Village of Atkinson</u> – In this water enforcement action concerning a Henry 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$2,000.00, and to cease and desist from further violations.	4-0 W-E
<b>PCB 13-61</b>	<u>People of the State of Illinois v. City of Galva</u> – In this water enforcement action concerning a Henry 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) (2010)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$2,000.00, and to cease and desist from further violations.	4-0 W-E
<b>PCB 13-65</b>	<u>Natural Resources Defense Council, Prairie Rivers Network, and Sierra Club v. Illinois Environmental Protection Agency and Dynegy Midwest Generation, Inc.</u> – No action taken.	W-PA, NPDES, 3d P
<b>PCB 13-68</b>	<u>Leslie C. Ko v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
<b>PCB 14-3</b>	<u>Johns Manville v. Illinois Department of Transportation</u> – No action taken.	L-E, Citizens

<b>PCB 14-4</b> (See also <b>PCB 12-94</b> )	<u>CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA</u> – No action taken.	W-V
<b>PCB 14-6</b>	<u>Jon Chvalovsky v. Exelon and Commonwealth Edison</u> – No action taken.	N-E, Citizens
<b>PCB 14-10</b>	<u>Illinois Power Holdings, LLC, AmerenEnergy Medina Valley Cogen, LLC, and Ameren Energy Resources, LLC as Co-Petitioner v. IEPA</u> – The Board accepted for hearing a request for variance from the sulfur dioxide emission rate provisions of the multi-pollutant standards involving seven facilities located in the following counties Montgomery, Fulton, Peoria, Massac, Crawford, Morgan, and Jasper.	4-0 A-V
<b>PCB 14-11</b>	<u>Kent Zimmerman Farms v. IEPA</u> – The Board found and certified that specified facilities of Kent Zimmerman Farms located in Livingston County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 T-C, W
<b>PCB 14-12</b>	<u>BMI Farms, LLC v. IEPA</u> – The Board found and certified that specified facilities of BMI Farms, LLC located in Brown County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2010)).	4-0 T-C, W
<b>PCB 14-13</b>	<u>People of the State of Illinois v. Bingham Commercial Construction, Inc.</u> – The Board accepted for hearing this water enforcement action concerning an Ogle County facility.	4-0 W-E
<b>PCB 14-14</b>	<u>People of the State of Illinois v. Donley Trucking, Inc.</u> – The Board accepted for hearing this land and water enforcement action concerning a Sangamon County facility.	4-0 L, W-E

### **CASES PENDING DECISION**

<b>R13-11</b>	<u>In the Matter of: Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504</u> <ul style="list-style-type: none"> <li>Proposed Rule; First Notice; Opinion &amp; Order</li> </ul>	Water
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### **OTHER ITEMS**

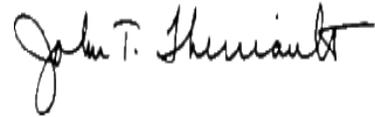
NONE

**ADJOURNMENT**

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Moved and seconded, by a vote of 4-0, Member Zalewski adjourned the meeting at 11:25 a.m.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on August 22, 2013, by a vote of 4-0.



John T. Therriault, Clerk  
Illinois Pollution Control Board