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Letter from the Chairman

In July, the Board took action in rulemakings that generated public interest and comment. Below, these recent rulemakings are summarized.

On June 4, 2015, the Board accepted a proposal from the Illinois Environmental Protection Agency (IEPA) and sent to first notice a rule to amend the fluoride standard in drinking water. That rule was docketed as Amendments to Primary Drinking Water Standards: 35 Ill. Adm. Code 611, R15-23. The Board reserved ruling on a request for emergency rulemaking, but agreed to expedite consideration of the rule. On July 9, 2015, the Board found that the record does not support a conclusion that the failure to immediately adopt a fluoride standard constitutes a threat to the public health, safety, or welfare. Therefore, the Board denied the motion for emergency rulemaking.



On July 23, 2015, the Board proposed for second notice amendments to the Board's procedural rules in Procedural Rule Amendments: Proposed Amendments to 35 Ill. Adm. Code 101, 103, 104, 106, 108, R15-20. Specifically, the Board proposes amendments to its procedural rules for out-of-state attorneys, service of filings, variance notice, and administrative citations. These amendments are to Parts 101, 103, 104, 106, and 108 of the Board's procedural rules in Title 35 of the Illinois Administrative Code. Part 101 contains the general rules that apply to all Board proceedings. Part 103 contains the Board's procedural rules on enforcement. Part 104 contains the Board's procedural rules for regulatory relief mechanisms, including variances. Part 106 contains procedural rules for proceedings pursuant to specific rules or statutory provisions. Part 108 contains procedural rules for administrative citations filed before the Board.

In addition to taking action on these rulemakings, the Board held hearings in Amendments to 35 Ill. Adm. Code Part 214, Sulfur Limitations, Part 217, Nitrogen Oxides Emissions, and Part 225, Control of Emissions from Large Combustion Sources, R15-21, Public Water Supplies: Proposed Amendments to 35 Ill. Adm. Code Parts 601, 602, and 603, R15-22, and Amendments to Primary Drinking Water Standards: 35 Ill. Adm. Code 611, R15-23. The Board is continuing with hearings in these rulemakings in August and will be accepting comments on these rules.

Please visit the Board website at www.ipcb.state.il.us for information on the rulemakings listed above as well as other Board rulemaking dockets and contested cases.

Sincerely,

A handwritten signature in black ink that reads "Deanna Glosser". The signature is written in a cursive, flowing style.

Deanna Glosser, Ph.D.
Chairman

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Appellate Update

Third District Affirms Board and Hearing Officer's Rulings on Parties' Failure to Timely Respond to People's Motion for Summary Judgment

Ironhustler Excavating, Inc., and Ron Bright, d/b/a Quarter Construction v. Pollution Control Board, People of the State of Illinois, and Intra-Plant Maintenance Corporation

2015 IL App (3d) 130801-U (Ironhustler)

Board docket PCB 12-21

On July 6, 2015, the Third District Appellate Court issued an unpublished decision affirming the procedural rulings of the Board and its hearing officer in an enforcement action that resulted in summary judgment for the People of the State of Illinois (People). The action was brought by the Illinois Attorney General's Office, at the request of the Illinois Environmental Protection Agency, against four respondents, including Ironhustler Excavating, Inc. (Ironhustler) and Ron Bright, doing business as Quarter Construction (Bright).

Board Proceedings. The People's complaint alleged that Ironhustler and Bright violated the Environmental Protection Act (Act) by causing or allowing the open dumping of waste (415 ILCS 5/21(a)) and disposing of waste at a site that did not meet sanitary landfill requirements (415 ILCS 5/21(e)). Ironhustler, ¶¶ 2, 10-12. The July 2011 complaint arose from the removal and disposal of material generated during construction of a wastewater treatment plant in Pekin, Tazewell County. The material was disposed of at a sand and gravel pit in Hopedale, Tazewell County. *Id.*, ¶ 11. The Board assigned a hearing officer to the case in August 2011; Ironhustler and Bright filed their answer to the People's complaint in October 2011; and the People filed a motion for summary judgment on August 10, 2012. *Id.*, ¶¶ 2, 3, 12.

Beginning in August 2012, the hearing officer extended Ironhustler and Bright's deadline for filing a response to the People's summary judgment motion "a number of times," sometimes by agreement and twice upon request. Ironhustler, ¶¶ 4, 13. Ultimately, the hearing officer extended the deadline to March 28, 2013. *Id.*, ¶ 15. On March 27, 2013, Ironhustler and Bright moved for another 30-day extension, citing their attorney's continued busyness as well as "a recurrence of personal health issues." *Id.*, ¶ 16. The People objected to the motion on the same day. *Id.* On March 28, 2013, the hearing officer issued an order denying the motion for extension of time and indicating that if Ironhustler and Bright were to nevertheless attempt to submit a response, they should file the response, along with a motion for leave to file *instanter*, as soon as possible. *Id.*, ¶ 17. On July 8, 2013, the hearing officer issued an order stating that on a telephonic status conference with the parties that day, Ironhustler and Bright reported that they

expected to file a response to the People’s summary judgment motion within 30 days, along with a motion for leave to file *instanter*. *Id.*, ¶ 18.

On July 25, 2013, the Board entered an opinion and order granting the People’s motion for summary judgment. *Ironhustler*, ¶ 6. As of that date, Ironhustler and Bright had not filed their response to the motion. *Id.* Among other things, the Board (1) found that Ironhustler and Bright violated Sections 21(a) and 21(e) of the Act, (2) ordered them to remove the material from the pit and dispose of it in compliance with the Act, and (3) imposed civil penalties of \$10,000 on Ironhustler and \$10,000 on Bright. *Id.*, ¶ 19. On August 26, 2013, Ironhustler and Bright filed (1) a motion asking the Board to reconsider its grant of summary judgment and (2) a motion for leave to file *instanter* their response to the summary judgment motion, attaching the response. *Id.*, ¶ 20. On September 19, 2013, the Board entered an order denying Ironhustler and Bright’s motions. *Id.*, ¶ 23. The Board noted that Ironhustler and Bright did not attempt to file a response to the summary judgment motion “during the nearly one-year period that transpired between the filing of that motion and the Board’s entry of summary judgment.” *Id.* In addition, the Board found that the hearing officer’s order of July 8 did not provide Ironhustler and Bright with “a reasonable basis upon which to believe that an extension of time to file a response had been granted.” *Id.* Ironhustler and Bright appealed.

Appellate Court Decision. Before the Third District Appellate Court, Ironhustler and Bright did not contest the merits of the Board’s summary judgment ruling. Instead, they asserted that the hearing officer was obligated to grant them another extension of time—to file a response to the People’s summary judgment motion—for “good cause shown,” and that the hearing officer’s “policy” of not granting an extension over the People’s objection rendered the Board’s procedural rule (35 Ill. Adm. Code 101.522) a “nullity.” *Ironhustler*, ¶¶ 27, 31. The Third District found that the procedural rule—by using the word “may” instead of “shall”—vested the hearing officer with the discretion to deny an extension, even if good cause had been demonstrated. *Id.*, ¶ 31. According to the court, the People’s objection to Ironhustler and Bright’s motion for an extension of time “had no bearing on the hearing officer’s determination” to decline another extension. *Id.*

Ironhustler and Bright also took issue with “the wording and subsequent effect” of the hearing officer’s March 28, 2013 order, which denied their third request for extension of time but also mentioned filing any response to the People’s summary judgment motion, along with a motion for leave to file *instanter*, as soon as possible. *Ironhustler*, ¶ 34. Ironhustler and Bright maintained that the hearing officer was protecting their rights to file their response. The Third District found that the March 28 order “unequivocally denied [the] request for yet another extension,” which meant the deadline for filing a response expired on March 28, 2013, “more than seven months after the motion for summary judgment had been filed and after the hearing officer had extended the deadline . . . twice.” *Id.* “[F]atal” to Ironhustler and Bright’s claim, according to the appellate court, was the fact that “103 days passed between the March 28 order and the July 8 status conference” without any response being filed, *when their denied request had been for a 30-day extension to April 28, 2013.* *Id.*, ¶ 35.

Ironhustler and Bright also maintained that based upon the July 8, 2013 hearing officer order, they had until August 8, 2013, to file a response to the People’s summary judgment motion.

Ironhustler, ¶ 36. The order of July 8, 2013, however, merely conveyed what Ironhustler and Bright’s counsel stated during that day’s telephonic status conference: they planned to file—within 30 days of July 8—a response, along with a motion for leave to file *instanter*. *Id.*, ¶ 18. The Third District determined that Ironhustler and Bright’s reliance upon the July 8 order as granting an additional extension was “unreasonable under the circumstances.” *Id.* The court logically observed that had the hearing officer granted a 30-day extension on July 8, there would have been no need to include a motion for leave to file *instanter* with the response. *Id.*, ¶ 36. “Perhaps most compelling,” the appellate court continued, is that although Ironhustler and Bright believed they had until August 8 to respond to the motion for summary judgment, they did not file a response by then. *Id.*, ¶ 37. Their response was not submitted until August 26, 2013, “18 days past the time counsel believed he needed to file a response” and more than a month after the Board granted summary judgment. *Id.*

Ironhustler and Bright next argued that in denying their motion to reconsider, the Board ignored what transpired between their attorney and the hearing officer, and instead looked solely to the grounds for reconsideration set forth in Section 101.902 of the Board’s procedural rules (35 Ill. Adm. Code 101.902). Ironhustler, ¶ 38. The Third District noted that Section 101.902 provides that “in ruling upon such a motion, the Board will consider factors *including* new evidence, or a change in the law, to conclude that the Board’s decision was in error.” *Id.* (emphasis added). The court stated that in addition to finding no newly-discovered evidence and no changes in the law, the Board also found that it was entitled to enter its July 25, 2013 summary judgment order because:

[T]he deadline for filing a response had expired nearly four months earlier, the hearing officer had not since extended that deadline, and [Ironhustler and Bright] had not provided any explanation for the reason they had not filed a response during the nearly four-month period which followed. Such a finding by the Board clearly falls within the scope of section 101.902, and is neither arbitrary nor capricious. *Id.*, ¶ 39.

The Third District observed that “[a]t some point,” the Board had to rule upon the People’s motion for summary judgment. Ironhustler, ¶ 40. The Board did so “almost a full year” after the motion was filed, and after Ironhustler and Bright were given “multiple opportunities” to file a response. *Id.* According to the appellate court, their failure to timely file a response “cannot be translated into the Board running roughshod over its own procedural rules.” *Id.*

Ironhustler and Bright also made, in the Third District’s words, a “sweeping allegation” that the Board and its hearing officer violated their “procedural and substantive due process rights.” Ironhustler, ¶ 42. The appellate court characterized their argument as a “reiteration” of their procedural rule “grievances,” described above. *Id.* The Third District found no due process violation after agreeing with the Board and the People that Ironhustler and Bright “forfeited” this claim by having failed to raise it their motion to reconsider. *Id.*, ¶¶ 42, 44.

Fourth District Reverses Board on Which UST Fund Deductible Applies
Estate of Gerald D. Slightom v. Pollution Control Board and Illinois Environmental Protection Agency

On July 7, 2015, the Fourth District Appellate Court issued a precedential opinion reversing the Board's decision concerning the deductible applicable to a request by the Estate of Gerald D. Slightom (Estate) for reimbursement of cleanup costs from the Underground Storage Tank (UST) Fund. The Board had affirmed the reimbursement denial issued to the Estate by the Illinois Environmental Protection Agency (Agency) where the Agency's determination was based upon applying a higher deductible than the deductible determined by the Office of the State Fire Marshal (OSFM). The Fourth District held that the Environmental Protection Act (Act) (415 ILCS 5) grants OSFM (not the Agency) the authority to make deductible determinations and requires that the Agency apply deductible determinations made by OSFM. The appellate court remanded the matter to the Board to consider the Estate's request for reimbursement of legal fees.

Background. The Estate's appeal of the Agency's denial presented the Board with two conflicting deductible determinations—one issued by the Agency and one issued by OSFM—for the same leaking UST incident. The Agency had determined in 1991 that a \$100,000 deductible applied, but OSFM determined in 2008 that a \$10,000 deductible applied. The Estate was cleaning up a former gas station site located in Girard, Macoupin County. Slightom, ¶ 1.

In 1991, Gerald Slightom owned the property and reported that there had been a release of gasoline, used oil, and heating oil from the site's USTs. Slightom, ¶ 3. The Agency issued a letter to Mr. Slightom in 1991 stating that he was eligible to seek reimbursement of cleanup costs from the UST Fund in excess of the \$100,000 deductible. The property was not remediated. *Id.*, ¶ 4. In September 1993, Title XVI (the Leaking UST Program) of the Act (415 ILCS 5/57 to 57.17) took effect pursuant to Public Act 88-496, which also repealed Sections 22.18b and 22.18c of the Act concerning UST Fund reimbursement of cleanup costs. *Id.*, ¶ 5. Under the repealed provisions, the Agency had applied deductibles to payments from the UST Fund, but under Public Act 88-496, OSFM was given the responsibility for determining deductibles. *Id.*

In September 2007, Mr. Slightom died. Slightom, ¶ 7. The Estate applied with OSFM for a determination of UST Fund eligibility and deductible. In 2008, OSFM determined that the Estate was eligible to seek reimbursement from the UST Fund, subject to a \$10,000 deductible. *Id.*, ¶ 8. The Estate then executed an election to proceed as "owner" under Title XVI and the Board's rules at 35 Ill. Adm. Code 734. *Id.*, ¶ 9. When the Estate applied with the Agency for UST Fund reimbursement of cleanup costs, the Agency in 2009 withheld \$10,000 based upon the 2008 OSFM deductible determination. *Id.*, ¶ 11. Later, however, the Agency declined additional reimbursement based upon the \$100,000 Agency deductible determination from 1991. *Id.*, ¶ 14. The Estate petitioned the Board for review of the Agency's decision to deny UST Fund reimbursement. *Id.*, ¶ 15.

Board Decision. The Board noted that OSFM's \$10,000 deductible determination was erroneous under Title XVI, but the Board recognized that OSFM's determination was not appealed and constituted a final agency determination. Slightom, ¶ 21. The Board found that the Agency's \$100,000 deductible determination was correct, based upon the 1991 version of the

Act. As that determination of the Agency was not appealed, the Board stated that it was faced with two conflicting final agency determinations. *Id.* The Board held that the Agency’s determination, which also happened to be the legally correct determination, applied. The Board observed that the Estate elected to subject itself to Title XVI of the Act and Part 734 of the Board’s UST rules (35 Ill. Adm. Code 734), which include Section 734.615(b)(4). *Id.*, ¶ 22. In the Agency denial letter appealed to the Board, the Agency cited Section 734.615(b)(4), which provides that “[w]here more than one deductible determination is made, the higher deductible shall apply.” *Id.*, quoting 35 Ill. Adm. Code 734.615(b)(4). Based upon this rule, the Board affirmed the Agency’s determination to deny reimbursement. The “higher deductible”—the \$100,000 deductible—applied. *Id.* The Estate appealed the Board’s decision.

Appellate Court Decision. The Fourth District agreed with the Board that the language of Section 734.615(b)(4) called for the \$100,000 deductible to apply, but “[t]he question is whether this is a valid rule.” Slightom, ¶ 23. Where a rule conflicts with the statute under which it was adopted, the rule is invalid. *Id.*, ¶ 25. The court stated that Title XVI of the Act is clear: OSFM is responsible for determining UST Fund eligibility and deductibles; and the Agency is responsible for processing payment applications. *Id.*, ¶ 26, quoting 415 ILCS 5/57.8(a) and 57.9(c). “Nowhere in Title XVI is the Agency given the authority to apply a deductible it, as opposed to [OSFM], determined to be appropriate.” *Id.* The appellate court therefore concluded that Section 734.615(b)(4) of the Board’s UST rules is “invalid insofar as it allows the Agency to apply a deductible the Agency determined to be appropriate as opposed to the deductible [OSFM] determined to be appropriate when a party has elected to proceed pursuant to Title XVI of the Act,” as the Estate had done. *Id.*, ¶ 27.

Because the Fourth District reversed the Board’s decision that the Agency correctly applied a \$100,000 deductible, the appellate court remanded the case to the Board to consider the Estate’s request for reimbursement of legal fees under Section 57.8(l) of Title XVI (415 ILCS 5/57.8(l)). Slightom, ¶ 29.

Fourth District Affirms Board in Third-Party Appeal of NPDES Permit
Natural Resources Defense Council, Prairie Rivers Network, and Sierra Club v. Pollution
Control Board, Environmental Protection Agency, and Dynegy Midwest Generation, Inc.
2015 IL App (4th) 140644 (NRDC)
Board docket PCB 13-17

On July 22, 2015, the Fourth District Appellate Court issued a precedential opinion affirming the Board’s decision in a third-party appeal of a National Pollutant Discharge Elimination System (NPDES) permit. The permit was issued by the Illinois Environmental Protection Agency (Agency) to Dynegy Midwest Generation, Inc. (Dynegy) for discharges of wastewater from the company’s Havana Power Station in Mason County. Natural Resources Defense Council, Prairie Rivers Network, and Sierra Club (Environmental Groups) unsuccessfully argued to the court that the Board erred in (1) holding that the Agency was not required to establish a case-by-case technology-based effluent limitation (TBEL) for discharges from Havana Power Station and (2) refusing to enforce IEPA’s regulation requiring the Agency to respond to citizens’ comments on draft NPDES permits.

Background. In September 2012, IEPA issued an NPDES permit to Dynegy for discharges from Havana Power Station to the Illinois River. NRDC, ¶ 1. In October 2012, the Environmental Groups filed a third-party appeal with the Board to contest IEPA’s permit determination. *Id.* In December 2013, the Environmental Groups moved for summary judgment. In February 2014, Dynegy and the Agency filed cross-motions for summary judgment. *Id.* In June 2014, the Board granted the Environmental Groups’ summary judgment motion in part, remanding the permit to the Agency—with instructions to amend the permit to require monthly rather than quarterly monitoring of mercury discharges—but denied the remainder of the Environmental Groups’ motion and granted the cross-motions for summary judgment of Dynegy and the Agency. *Id.* The Environmental Groups appealed the Board’s decision.

Case-By-Case TBEL. The appellate court noted that the Environmental Protection Act (415 ILCS 5/12(f)) prohibits the discharge of any contaminant into the waters of Illinois without an NPDES permit or in violation of the terms or conditions of the permit. NRDC, ¶ 21. The federal Clean Water Act (33 U.S.C. 1311, 1342) established the NPDES program and, in Illinois, the Agency is responsible for issuing NPDES permits. *Id.* The Administrator of the United States Environmental Protection Agency (USEPA) is obligated to establish uniform national “effluent limitations” for each pollutant, *i.e.*, effluent limitations guidelines (ELGs). *Id.*, ¶ 22. For toxic pollutants such as mercury, the Administrator is required to establish an ELG on an industry-specific basis, applying the “best available technology economically achievable” for the particular industry. *Id.* If the Administrator has promulgated an ELG, it must be used for all NPDES permits. *Id.* However, to the extent no ELG applies, NPDES permit writers must use “best professional judgment,” on a case-by-case basis, to determine the effluent limitations that represent the best available technology and impose them in the permit. *Id.*, ¶ 23.

The Board rejected the Environmental Groups’ argument that IEPA was required to develop a site-specific mercury TBEL for Havana Power Station’s discharges. NRDC, ¶ 15. The Board found that the definition of “low level wastes” in USEPA’s 1982 ELG (40 C.F.R. § 423.11(b)) plainly included the waste stream from Dynegy’s air pollution control equipment (*i.e.*, scrubber and activated carbon mercury sorbent injection (ACI)). *Id.* The Environmental Groups argued to the appellate court that the 1982 ELG was inapplicable and that USEPA had not promulgated an ELG applicable to Dynegy’s type of discharge. *Id.*, ¶ 24. All parties before the appellate court “agree[d] that, under the Clean Water Act, the IEPA was not required to establish a TBEL for mercury if the USEPA had already established an applicable ELG.” *Id.*, ¶ 33.

The Fourth District recognized that the issue was “whether the 1982 ELG applies.” NRDC, ¶ 25. The court described the 1982 ELG as “a comprehensive set of rules to regulate discharges from oil-fueled and coal-fueled electricity-generating plants” like the Havana Power Station. *Id.*, ¶ 26. The appellate court agreed with the Board that the plain language of the “low volume waste sources” definition indicates USEPA’s intent “to broadly capture waste streams not specifically regulated elsewhere by the 1982 ELG.” *Id.*, quoting 40 C.F.R. § 423.11(b) (“wastewater from all sources except those for which specific limitations are otherwise established in this part”). According to the court, “[g]iven that the Havana facility’s scrubber/ACI waste stream is not specifically regulated elsewhere by the 1982 ELG, the waste stream constitutes a low volume

waste source.” *Id.*, ¶ 26. Therefore, “the 1982 ELG applies,” the court continued, and “IEPA was not required to adopt TBELs on a case-by-case basis for the Havana facility.” *Id.*

The Fourth District found support for this conclusion—that the 1982 ELG applies to Havana Power Station’s discharge—in USEPA’s 2010 NPDES Permit Writers’ Manual. NRDC, ¶ 27. Based upon that document, the appellate court emphasized that “the relevant question is whether the USEPA considered mercury—the toxic pollutant at issue here.” *Id.* The court agreed with the Board that the 1982 ELG “shows mercury was among the toxic pollutants considered when determining the appropriate effluent limitations for low volume waste sources.” *Id.*, ¶ 28, quoting 47 Fed. Reg. 52,290, 52,303 (Nov. 19, 1982) (“stating ‘[t]he following 24 toxic pollutants are excluded from national regulation because they are present in amounts too small to be effectively reduced by technologies known to the Administrator’ and listing mercury”). As the Board did, the court found further support for this interpretation in the fact that USEPA reviewed IEPA’s draft NPDES permit for Dynegey, after which USEPA concluded that it “would not object to the issuance of the permit as drafted.” *Id.*, ¶ 29. “Thus, the USEPA implicitly agreed with the IEPA’s decision to not develop and impose a case-by-case best-professional-judgment-based TBEL for the Havana facility scrubber/ACI waste stream.” *Id.*

The appellate court also looked to USEPA’s proposed ELG for steam electric power plants (78 Fed. Reg. 34,432, 34,533 (June 7, 2013)), which would define “flue gas mercury control (FGMC) wastewater to specifically include wastewater from ACI systems.” NRDC, ¶ 30. The court emphasized USEPA’s discussion of the proposed ELG’s new approach to regulating FGMC wastewater discharges: “the USEPA explained those same discharges are ‘currently included under the definition of low volume wastes.’” *Id.*, ¶ 31, quoting 78 Fed. Reg. 34,432, 34,463 (June 7, 2013). Accordingly, the court observed, “it appears the USEPA interprets the 1982 ELG to already regulate ACI discharges as low volume wastes.” *Id.*, ¶ 31.

The Fourth District held that “[b]ecause the Havana facility’s scrubber/ACI waste stream was subject to the 1982 ELG, the Board did not err in finding the IEPA was not required to adopt TBELs on a case-by-case basis.” NRDC, ¶ 33.

IEPA Responding to Citizens’ Comments. The Environmental Groups argued that the Board erred in declining to enforce an IEPA regulation (35 Ill. Adm. Code 166.192) requiring IEPA to issue a “responsiveness summary” that addresses citizens’ post-hearing comments on draft NPDES permits. NRDC, ¶¶ 35, 36. The IEPA regulation requires the responsiveness summary to set forth IEPA’s “specific response to all significant comments, criticisms, and suggestions.” *Id.*, ¶ 36. The Environmental Groups maintained that IEPA “said nothing at all concerning case-by-case TBELs,” contrary to the IEPA regulation. *Id.*, ¶ 35. The Fourth District noted that USEPA’s corresponding regulation also requires state agencies to respond to all significant comments on a draft permit. *Id.*, ¶ 36, citing 40 C.F.R. § 124.17(a)(2).

The appellate court quoted federal case law on the issue: “[C]omments must be significant enough to step over a threshold requirement of materiality before any lack of agency response or consideration becomes of concern. The comment cannot merely state that a particular mistake was made . . . it must show why the mistake was of possible significance in the results ***.” NRDC, ¶ 37, quoting Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense

Council, Inc., 435 U.S. 519, 553 (1978) (quoting Portland Cement Ass'n v. Ruckelshaus, 486 F.2d 375, 394 (D.C. Cir. 1973), *cert. denied sub nom. Portland Cement Corp. v. Administrator, Environmental Protection Agency*, 417 U.S. 921 (1974)). The Fourth District explained that selecting which comments are significant “necessarily involves a matter of discretion,” and a “cognizable challenge” to an agency’s selection decision cannot be stated without alleging that “the agency acted in an arbitrary and capricious manner.” *Id.*, ¶ 38, citing Citizens for Clean Air v. United States Environmental Protection Agency, 959 F.2d 839, 845-46 (9th Cir. 1992).

Concerning IEPA’s responsiveness summary, the Fourth District noted that “[m]ultiple responses dealt with the issue of mercury.” NRDC, ¶ 39. According to the appellate court, the Environmental Groups did not establish that their TBEL comments were significant or that IEPA acted in an arbitrary or capricious manner “by not selecting those comments for a response or by not providing answers sufficient to satisfy [the Environmental Groups’] concerns.” *Id.*, ¶ 40. The Fourth District concluded that “IEPA is entitled to deference in determining whether [the Environmental Groups’] TBEL comments were significant, and the Board did not err in deferring to IEPA’s discretion.” *Id.*

Rulemaking Update

Board Denies IEPA's Motion for Emergency Rulemaking to Amend Drinking Water Fluoridation Requirement, R15-23

On July 9, 2015, the Board issued an order denying the emergency rulemaking motion of the Illinois Environmental Protection Agency (IEPA) in a proceeding captioned Amendments to Primary Drinking Water Standards: 35 Ill. Adm. Code 611, docket R15-23. IEPA sought to have its proposed amendment to the drinking water fluoridation requirement adopted by the Board as an “emergency rule.” An emergency rule becomes effective immediately and may remain in effect for a period of no more than 150 days. IEPA’s proposal, filed on May 20, 2015, would change the required drinking water concentration of fluoride that must be maintained by community water suppliers. Currently, each community water supplier must add fluoride to the water to maintain a fluoride ion concentration of 0.9 to 1.2 milligrams per liter (mg/L) in its distribution system. The amendment would decrease the required fluoride ion concentration to 0.7 mg/L, consistent with the level recently recommended by the United States Department of Health and Human Services.

By order of June 4, 2015, the Board granted IEPA’s motion for expedited review and therefore adopted the proposed amendment for first-notice publication in the *Illinois Register* without commenting on the amendment’s merits. But, that order reserved ruling on IEPA’s motion to adopt the amendment as an emergency rule. The Board requested that IEPA provide additional information, and invited public comment, on whether the amendment should be adopted as an emergency rule. In turn, the Board received five public comments, including submittals from IEPA and several community water suppliers.

In its July 9, 2015 order, the Board observed that IEPA did not base its motion for an emergency rule on a claimed need to avoid significant public health impacts. Instead, IEPA claimed a need to avoid forcing community water suppliers statewide to spend taxpayer dollars—approximately \$1,000,000 every six months—on fluoridation to meet an outdated standard. The Board found, however, that the record did not support a conclusion that failing to immediately adopt the fluoride amendment constituted a threat to the public health, safety, or welfare. Based on the statutory definition of “emergency” and the case law interpreting that term, the Board could not find that the loss of financial savings to public water suppliers in this instance constituted an emergency. The Board noted that it had already proposed the new fluoride requirement for first notice (39 Ill. Reg. 8691 (June 26, 2015)) and scheduled two hearings (July 30 and August 19, 2015), which would allow the Board to adopt the amendment as a permanent rule before the end of calendar year 2015. Accordingly, the loss in financial savings would correspond to a period of less than five months and, even then, the record did not identify how losing these savings would impact the public interest, safety, or welfare. Because an immediate effective date for the amended fluoride requirement was not necessary to address an emergency, the Board denied IEPA’s motion for emergency rulemaking.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board’s website (www.ipcb.state.il.us) and may be downloaded

without charge. Hard copies may be obtained from the Clerk's Office (Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601) upon payment of reproduction fees as prescribed by the Freedom of Information Act.

For more information, please contact Marie Tipsord at 312-814-4925 or marie.tipsord@illinois.gov.

Board Proposes Second-Notice Amendments to Procedural Rules, R15-20

On July 23, 2015, the Board adopted an opinion and order proposing procedural rule amendments for second-notice review by the Joint Committee on Administrative Rules. The rulemaking is captioned Procedural Rules Amendments: Proposed Amendments to 35 Ill. Adm. Code 101, 103, 104, 106, 108, docket R15-20. The Board had adopted a second first-notice opinion and order on May 7, 2015. Those proposed first-notice amendments were published in the *Illinois Register* on June 5, 2015.

The proposal will amend Parts 101, 103, 104, 106, and 108 of the Board's procedural rules. Specifically, the Board proposed revising the process for allowing out-of-state attorneys to appear *pro hac vice* in a Board adjudicatory proceeding. The procedural rule amendment would require those attorneys to comply with Illinois Supreme Court Rule 707, which establishes a procedure by which an eligible out-of-state attorney may appear as counsel and provide legal services in a proceeding without order of the tribunal. In addition, to implement Public Act 98-0822, the Board proposed to amend its procedural rules on variances. Further, the Board proposed amending its procedural rules on administrative citations to accommodate citations filed under the Public Water Supply Operations Act or the Electronic Products Recycling and Reuse Act. The rulemaking proposal also continued to update and clarify the Board's procedural rules for all forms of service.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's website (www.ipcb.state.il.us) and may be downloaded without charge. Hard copies may be obtained from the Clerk's Office (Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601) upon payment of reproduction fees as prescribed by the Freedom of Information Act.

For more information, please contact Daniel Robertson at 312-814-6931 or daniel.robertson@illinois.gov.

Board Actions

July 9, 2015
Via videoconference
Springfield and Chicago, Illinois

Rulemakings

R12-9(B) In the Matter of: Proposed Amendments to Clean Construction or Demolition Debris (CCDD) Fill Operations: Proposed Amendments to 35 Ill. Adm. Code 1100
(Land) – No action taken.

R15-23 In the Matter of: Amendments to Primary Drinking Water Standards: 35 Ill. Adm. Code 611 5-0
(Public Water Supply) – The Board denied the Illinois Environmental Protection Agency’s motion to adopt its proposal to amend the Board’s public water supply rules as an emergency rule.

Administrative Citations

AC 12-18 IEPA v. F.I.M., Inc. – In response to a joint stipulation and proposed settlement agreement in this administrative citation action involving an Adams County facility, the Board found that respondent had violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2014)) and ordered respondent to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondent’s petition for review. To effectuate the parties’ intent that respondent pay a total civil penalty of \$1,500, the Board on its own motion dismissed the alleged violation of Section 21(p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(3) and (p)(7) (2014)). 5-0

AC 14-10 IEPA v. Daniel Dawson – The Board granted complainant’s motion for voluntary dismissal of this administrative citation and closed the docket. 5-0

AC 14-20 IEPA v. Frank Root – The Board granted complainant’s motion for voluntary dismissal of this administrative citation and closed the docket. 5-0

AC 14-22	<u>IEPA v. Roger Ray</u> – The Board granted complainant’s motion for voluntary dismissal of this administrative citation and closed the docket.	5-0
AC 14-27	<u>IEPA v. Steven and Anthony Sohn</u> – The Board granted complainant’s motion for voluntary dismissal of this administrative citation and closed the docket.	5-0
AC 14-46	<u>IEPA v. Jeanetta and Gary Maddock</u> – The Board granted complainant’s motion for voluntary dismissal of this administrative citation and closed the docket.	5-0
AC 15-18	<u>IEPA v. Charles Wessel and CL Wessel Heavy Equipment, Inc.</u> – The Board granted complainant’s motion for voluntary dismissal of this administrative citation and closed the docket.	5-0

Adjudicatory Cases

PCB 10-86	<u>People of the State of Illinois v. Illinois Fuel Company, LLC</u> (Water – Enforcement, NPDES) – No action taken.	
PCB 12-135	<u>Dynergy Midwest Generation, LLC v. IEPA</u> (Air – Variance) – No action taken.	
PCB 15-60	<u>Clinton Landfill, Inc. v. IEPA</u>	5-0
PCB 15-76	<u>Clinton Landfill, Inc. v. IEPA</u>	
PCB 15-111	<u>Clinton Landfill, Inc. v. IEPA</u>	
PCB 15-113	<u>Clinton Landfill, Inc. v. IEPA</u>	
PCB 15-166	(Land - Permit Appeal) – The Board granted the parties’ joint motions to consolidate these previously consolidated permit appeals with PCB 15-207, designated the record filed in PCB 15-60, <i>et al.</i> as the record in PCB 15-207, and granted the joint motion to stay the consolidated permit appeals until July 31, 2015.	
PCB 15-194		
PCB 15-195 (cons.)		
PCB 15-64	<u>People of the State of Illinois v. Surdyke Cycle of Illinois, Inc., an Illinois Corporation, d/b/a Dale's Harley-Davidson and Waterkotte Harley-Davidson</u> (Land -Enforcement) – In this land enforcement action concerning a Jefferson 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) (2014)), accepted a stipulation and settlement agreement, and ordered respondent to pay a \$5,600 civil penalty and to cease and desist from further violations.	5-0

PCB 15-72	<u>People of the State of Illinois v. Starved Rock Adventures, Inc.</u> (Air, Water – Enforcement) – In this air and water enforcement action concerning a LaSalle 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) (2014)), accepted a stipulation and settlement agreement, and ordered respondent to pay a \$8,000 civil penalty and to cease and desist from further violations.	5-0
PCB 15-80	<u>People of the State of Illinois v. SSW Development, L.L.C., a dissolved Illinois limited liability corporation, and John Kaup, an individual</u> (Water – Enforcement) – In this water enforcement action concerning a Will 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) (2014)), accepted a stipulation and settlement agreement, and ordered respondent to pay a \$11,000 civil penalty and to cease and desist from further violations.	5-0
PCB 15-169	<u>Norm Creveling v. IEPA</u> (UST-Permit Appeal) – The Board accepted for hearing this underground storage tank appeal on behalf of this Iroquois County facility.	5-0
PCB 15-173	<u>Chatham BP, LLC v. IEPA</u> (UST-Permit Appeal) – No action taken.	
PCB 15-184	<u>People of the State of Illinois v. City of Bloomington, Illinois</u> (Public Water Supply – Enforcement) – In this public water supply enforcement action concerning a McLean 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) (2014)), accepted a stipulation and settlement agreement, and ordered respondent to pay a \$10,260 civil penalty and to cease and desist from further violations.	5-0
PCB 15-185	<u>People of the State of Illinois v. The Village of Volo</u> (Public Water Supply – Enforcement) – In this public water supply enforcement action concerning a Lake 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) (2014)), accepted a stipulation and settlement agreement, and ordered respondent to pay a \$8,000 civil penalty and to cease and desist from further violations.	5-0

PCB 15-201	<u>People of the State of Illinois v. Terry Stahly</u> (Air – Enforcement) – In this air enforcement action concerning a McLean 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) (2014)), accepted a stipulation and settlement agreement, and ordered respondent to pay a \$15,000 civil penalty and to cease and desist from further violations.	5-0
PCB 15-205	<u>Century Environmental Resources, Inc. v. IEPA</u> (Land, RCRA – Permit Appeal) – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Cook County facility.	5-0
PCB 15-206	<u>D & V Pork - Fowler v. IEPA</u> (Water – Tax Certification) – The Board found and certified that specified facilities of D & V Pork located in Adams County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).	5-0
PCB 15-207	<u>Clinton Landfill, Inc. v. IEPA</u> (Land – Permit Appeal) – The Board accepted for hearing this permit appeal on behalf of this DeWitt County facility. As noted above under PCB 15-60 <i>et al.</i> , the Board also granted the parties’ joint motions to consolidate previously consolidated permit appeals PCB 15-60, <i>et al.</i> with PCB 15-207, designated the record filed in PCB 15-60, <i>et al.</i> as the record in PCB 15-207, and granted the joint motion to stay the consolidated permit appeals until July 31, 2015.	5-0
PCB 15-212	<u>People of the State of Illinois v. Riverton Cabinet Company</u> (Air – Enforcement) – 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 air enforcement action involving a Will County facility, the Board ordered publication of the required newspaper notice.	5-0
PCB 15-213	<u>People of the State of Illinois v. White Oak Resources, LLC</u> (Land – Enforcement) – 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 air enforcement action involving a Hamilton County facility, the Board ordered publication of the required newspaper notice.	5-0

PCB 15-217 People of the State of Illinois v. Walsh Construction Company, Terrell Materials Corporation, and Walsh/Terrell Joint Venture (Air – Enforcement) – 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 air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice. 5-0

**June 23, 2015
Chicago, Illinois**

Rulemakings

- R12-9(B)** In the Matter of: Proposed Amendments to Clean Construction or Demolition Debris (CCDD) Fill Operations: Proposed Amendments to 35 Ill. Adm. Code 1100
(Land) – No action taken.
- R15-11** RCRA Subtitle C Update (July 1, 2014 through December 31, 2014) 5-0
(Land) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its hazardous waste regulations during the update period of January 1, 2015 through June 30, 2015.
- R15-20** In the Matter of: Procedural Rule Amendments: Proposed Amendments to 35 Ill. Adm. Code 101, 108 5-0
(Procedural) – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s procedural rules.
- R16-1** Wastewater Pretreatment Update, USEPA Amendments (January 1, 2015 through June 30, 2015) 5-0
(Water) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its wastewater pretreatment regulations during the update period of January 1, 2015 through June 30, 2015.
- R16-3** Definition of VOM Update, USEPA Amendments (January 1, 2015 through June 30, 2015) 5-0
(Air) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its volatile organic material regulations during the update period of January 1, 2015 through June 30, 2015.

R16-5	<u>UIC Update, USEPA Amendments (January 1, 2015 through June 30, 2015)</u> (Land) – 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 January 1, 2015 through June 30, 2015.	5-0
R16-6	<u>UIC Update, USEPA Amendments (January 1, 2015 through June 30, 2015)</u> (Land) – 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 January 1, 2015 through June 30, 2015.	5-0
R16-8	<u>UST Update, USEPA Amendments (January 1, 2015 through June 30, 2015)</u> (Land) – 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 January 1, 2015 through June 30, 2015.	5-0
Adjudicatory Cases		
PCB 06-62	<u>Kincaid Generation, L.L.C. v. IEPA</u> (Air – Permit Appeal) – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal.	5-0
PCB 10-86	<u>People of the State of Illinois v. Illinois Fuel Company, LLC</u> (Water – Enforcement, NPDES) – No action taken.	
PCB 12-135	<u>Dynegy Midwest Generation, LLC v. IEPA</u> (Air – Variance) – The Board denied petitioner’s request for a variance from the prohibition against selling or trading sulfur dioxide (SO ₂) emission allowances found in the multi-pollutant standard (MPS) at 35 Ill. Adm. Code 225.233(f)(2) (Section 225.233(f)(2)).	5-0
PCB 13-54	<u>Jay Bell's 66 v. IEPA</u> (UST – Permit Appeal) – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal.	5-0
PCB 13-62	<u>United States Steel Corporation v. IEPA</u> (Air – Permit Appeal) – The Board granted petitioner’s motion to stay the effectiveness of the contested permit conditions. The	5-0

Board extended the stay until January 1, 2016.

PCB 14-111	<u>Sanitary District of Decatur v. IEPA</u> (Water – Variance) – The Board granted petitioner’s motion to continue the existing stay until December 31, 2015.	5-0
PCB 14-127	<u>People of the State of Illinois v. Remediation and Management Services Corporation</u> (Air -Enforcement) – Upon receipt of a stipulation and proposed settlement agreement and agreed motion to request relief from the hearing requirement in this land enforcement action involving a Carroll County facility, the Board ordered publication of the required newspaper notice.	5-0
PCB 15-110	<u>Village of Carlock v. IEPA</u> (Public Water Supply, Water Well Setback) – No action taken.	
PCB 15-173	<u>Chatham BP, LLC v. IEPA</u> (UST-Permit Appeal) – The Board entered an interim opinion and order which reversed the Illinois Environmental Protection Agency’s (Agency) February 25, 2015 rejection of petitioner’s Stage 2 site investigation plan. Petitioner was directed to file a statement of legal fees that may be eligible for reimbursement and its arguments why the Board should exercise its discretion to direct the Agency to reimburse those fees from the UST Fund. The Board at the conclusion of this case will remand the proposed Stage 2 site investigation budget to the Agency for its review.	5-0
PCB 15-202	<u>IPH, LLC and Illinois Power Resources Generating, LLC (E.D. Edwards Power Plant) v. IEPA</u> (Water – Permit Appeal, NPDES) – The Board granted petitioners’ motion for a stay of the contested permit condition.	5-0
PCB 15-203	<u>Kincaid Generation, L.L.C. v. IEPA</u> (Water – Permit Appeal, NPDES) – The Board granted petitioners’ motion for a stay of the contested permit conditions.	5-0
PCB 15-204	<u>Exelon Generation, LLC (Dresden Nuclear Generating Station) v. IEPA</u> (Thermal Demonstration) – The Board accepted this petition for alternative thermal effluent limitations on behalf of this Grundy County facility.	5-0
PCB 15-208	<u>C & W Farms - Ursa v. IEPA</u> (Water – Tax Certification) – The Board found and certified that specified facilities of C & W Farms located in Adams County are	5-0

pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).

- PCB 15-209** D & B. Farms, LLC - Ursa v. IEPA 5-0
(Water – Tax Certification) – The Board found and certified that specified facilities of D & B. Farms located in Adams County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).
- PCB 15-210** Larson Farms North, LLC - Maple Park v. IEPA 5-0
(Water – Tax Certification) – The Board found and certified that specified facilities of Larson Farms North located in DeKalb County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).
- PCB 15-211** Greg Olson - Waterman v. IEPA 5-0
(Water – Tax Certification) – The Board found and certified that specified facilities of Greg Olson located in DeKalb County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).
- PCB 15-214** George E. Mattern v. IEPA 5-0
(Water – Tax Certification) – The Board found and certified that specified facilities of George E. Mattern located in Putnam County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).
- PCB 15-215** KH Poppy Farms v. IEPA 5-0
(Water – Tax Certification) – The Board found and certified that specified facilities of KH Poppy Farms located in Henry County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).
- PCB 15-216** David Klaus v. IEPA 5-0
(Water – Tax Certification) – The Board found and certified that specified facilities of David Klaus located in Macoupin County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).

PCB 16-1	<p><u>John DeBlock v. IEPA</u> (Water – Tax Certification) – The Board found and certified that specified facilities of John DeBlock located in Mercer County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).</p>	5-0
PCB 16-2	<p><u>Mark Erdman v. IEPA</u> (Water – Tax Certification) – The Board found and certified that specified facilities of Mark Erdman located in McLean County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).</p>	5-0
PCB 16-4	<p><u>People of the State of Illinois v. City of Toulon</u> (Water – Enforcement) – 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 Stark County facility, the Board ordered publication of the required newspaper notice.</p>	5-0
PCB 16-7	<p><u>People of the State of Illinois v. Fleischmann's Vinegar Company, Inc.</u> (Air – Enforcement) – 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 air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.</p>	5-0
PCB 16-10	<p><u>People of the State of Illinois v. K.JMM Partnership, an Illinois General Partnership.</u> (Water – Enforcement) – 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 St. Clair County facility, the Board ordered publication of the required newspaper notice.</p>	5-0
PCB 16-11	<p><u>Wabash Valley Power Association v. IEPA</u> (Air-Permit Appeal) – The Board accepted for hearing this permit appeal on behalf of this DeWitt County facility. The Board reserved ruling on petitioner’s motion for stay of the contested permit conditions, to allow the time for IEPA to file a response to run.</p>	5-0

New Cases

July 9, 2015 Board Meeting

PCB 15-205 Century Environmental Resources, Inc. v. IEPA

(Land – Permit Appeal, RCRA) – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Cook County facility.

PCB 15-206 D & V Pork - Fowler v. IEPA

(Water – Tax Certification) – The Board found and certified that specified facilities of D & V Pork located in Adams County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).

PCB 15-207 Clinton Landfill, Inc. v. IEPA

(Land – Permit Appeal) – The Board accepted for hearing this permit appeal on behalf of this DeWitt County facility. As noted above under PCB 15-60 *et al.*, the Board also granted the parties' joint motions to consolidate previously consolidated permit appeals PCB 15-60, *et al.* with PCB 15-207, designated the record filed in PCB 15-60, *et al.* as the record in PCB 15-207, and granted the joint motion to stay the consolidated permit appeals until July 31, 2015.

PCB 15-208 C & W Farms - Ursa v. IEPA

(Water – Tax Certification) – No action taken.

PCB 15-209 D & B. Farms, LLC - Ursa v. IEPA

(Water – Tax Certification) – No action taken.

PCB 15-210 Larson Farms North, LLC - Maple Park v. IEPA

(Water – Tax Certification) – No action taken.

PCB 15-211 Greg Olson - Waterman v. IEPA

(Water – Tax Certification) – No action taken.

PCB 15-212 People of the State of Illinois v. Riverton Cabinet Company

(Air – Enforcement) – 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 air enforcement action involving a Will County facility, the Board ordered publication of the required newspaper notice.

PCB 15-213 People of the State of Illinois v. White Oak Resources, LLC

(Land – Enforcement) – 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 air enforcement action involving a Hamilton County facility, the Board ordered publication of the required newspaper notice.

PCB 15-214 George E. Mattern v. IEPA

(Water – Tax Certification) – No action taken.

PCB 15-215 KH Poppy Farms v. IEPA
(Water – Tax Certification) – No action taken.

PCB 15-216 David Klaus v. IEPA
(Water – Tax Certification) – No action taken.

PCB 15-217 People of the State of Illinois v. Walsh Construction Company, Terrell Materials Corporation, and Walsh/Terrell Joint Venture
(Air – Enforcement) – 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 air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.

PCB 16-1 John DeBlock v. IEPA
(Water – Tax Certification) – No action taken.

PCB 16-2 Mark Erdman v. IEPA
(Water – Tax Certification) – No action taken.

June 18, 2015

PCB 16-3 Frank Hopkins v. IEPA
(Water – Tax Certification) – No action taken.

PCB 16-4 People of the State of Illinois v. City of Toulon
(Water – Enforcement) – 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 Stark County facility, the Board ordered publication of the required newspaper notice.

PCB 16-5 Moss Family Farms, Inc. v. IEPA
(Water – Tax Certification) – No action taken.

PCB 16-6 Naftzger Farms - Erie v. IEPA
(Water – Tax Certification) – No action taken.

PCB 16-7 People of the State of Illinois v. Fleischmann's Vinegar Company, Inc.
(Air – Enforcement) – 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 air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.

PCB 16-8 Brandon & Jill Hofman Finishing Barn - Aledo v. IEPA
(Water – Tax Certification) – No action taken.

PCB 16-9 Larry Wernsing v. IEPA

(Water – Tax Certification) – No action taken.

PCB 16-10 People of the State of Illinois v. K.JMM Partnership, an Illinois General Partnership.

(Water – Enforcement) – 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 St. Clair County facility, the Board ordered publication of the required newspaper notice.

PCB 16-11 Wabash Valley Power Association v. IEPA

(Air-Permit Appeal) – The Board accepted for hearing this permit appeal on behalf of this DeWitt County facility. The Board reserved ruling on petitioner’s motion for stay of the contested permit conditions, to allow the time for IEPA to file a response to run.

PCB 16-12 Paul B. Finley v. IEPA

(Water – Tax Certification) – No action taken.

PCB 16-13 Hopkins Farms v. IEPA

(Water – Tax Certification) – No action taken.

Calendar

<p>7/2/2015 11:00 AM</p>	<p>R15-22</p>	<p><u>In the Matter of: Public Water Supplies: Proposed Amendments to 35 Ill. Adm. Code Parts 601, 602, and 603</u></p>	<p>James R. Thompson Center Room 11-512 100 W. Randolph Chicago</p>
<p>7/8/2015 9:00 AM</p>	<p>R15-21</p>	<p><u>In the Matter of: Amendments to 35 Ill. Adm. Code Part 214, Sulfur Limitations, Part 217, Nitrogen Oxides Emissions, and Part 225, Control of Emissions from Large Combustion Sources</u></p>	<p>Illinois Environmental Protection Agency, Sangamo Conference Room, 1021 N. Grand Ave E, (North Entrance) Springfield</p>
<p>7/9/2015 11:00 AM</p>	<p>Illinois Pollution Control Board Meeting</p>		<p>Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield</p>
<p>7/14/2015 10:00 AM</p>	<p>PCB 15-110</p>	<p><u>Village of Carlock v. IEPA</u></p>	<p>White Oak Township Community Building 202 North Lincoln Street, Carlock, IL</p>
<p>7/22/2015 10:00 AM</p>	<p>AC 15-17</p>	<p><u>IEPA v. Bernard and Carolyn Carr and Jeffrey Yerk</u></p>	<p>Fulton County Courthouse Room 313 100 N. Main Street Lewistown, IL</p>
<p>7/23/2015 11:00 AM</p>	<p>Illinois Pollution Control Board Meeting</p>		<p>Chicago James R. Thompson Center 100 W. Randolph Street Chicago</p>
<p>7/29/2015 10:00 AM</p>	<p>R15-21</p>	<p><u>In the Matter of: Amendments to 35 Ill. Adm. Code Part 214, Sulfur Limitations, Part 217, Nitrogen Oxides Emissions, and Part 225, Control of Emissions from Large Combustion Sources</u></p>	<p>Will County Executive Office Second Floor County Board Chambers 302 North Chicago Street Joliet Illinois</p>

7/30/2015 1:00 PM	R15-23	<u>In the Matter of: Amendments to Primary Drinking Water Standards: 35 Ill. Adm. Code 611</u>	Illinois Environmental Protection Agency, Sangamo Conference Room, 1021 N. Grand Ave E, (North Entrance) Springfield
8/4/2015 10:30 AM	R15-21	<u>In the Matter of: Amendments to 35 Ill. Adm. Code Part 214, Sulfur Limitations, Part 217, Nitrogen Oxides Emissions, and Part 225, Control of Emissions from Large Combustion Sources</u>	Pekin City Hall 111 South Capitol Street, Council Chambers Pekin Illinois
8/6/2015 11:00 AM	Illinois Pollution Control Board Meeting		Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
8/11/2015 10:00 AM	PCB 15-186	<u>Sharon Burgess v. IEPA</u>	Illinois Pollution Control Board Hearing Room, 1021 North Grand Avenue East, North Entrance, Springfield, IL
8/17/2015 11:00 AM	R15-22	<u>In the Matter of: Public Water Supplies: Proposed Amendments to 35 Ill. Adm. Code Parts 601, 602, and 603</u>	Illinois Environmental Protection Agency, Chestnut Room, 1021 N. Grand Ave E, (North Entrance) Springfield
8/19/2015 1:00 PM	R15-23	<u>In the Matter of: Amendments to Primary Drinking Water Standards: 35 Ill. Adm. Code 611</u>	James R. Thompson Center Room 2-025 100 W. Randolph Chicago
8/20/2015 11:00 AM	Illinois Pollution Control Board Meeting		Chicago James R. Thompson Center 100 W. Randolph Street Chicago
8/25/2015 11:00 AM	R15-24	<u>In the Matter of: Water Pollution: Proposed Amendments to 35 Ill. Adm. Code Part 309</u>	Illinois Pollution Control Board, Conference Room 1244, 1021 North Grand Avenue East, North Entrance, Springfield, IL

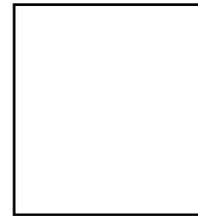
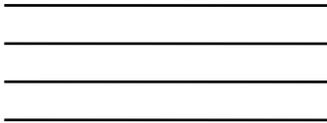
8/26/2015 10:00 AM	AC 12-21	<u>IEPA v. Katherine Blunk</u>	Watseka City Hall, Council Chambers, 201 Brianna Dr., Watseka, IL
9/2/2015 11:00 AM	AC 11-22	<u>IEPA v. Kyle E. Pritchett</u>	Mt. Carmel City Hall, Council Chambers, 219 N. Market Street, Mt. Carmel, IL
9/2/2015 11:30 AM	AC 15-25	<u>IEPA v. Mark E. Bosecker</u>	Mt. Carmel City Hall, Council Chambers, 219 N. Market Street, Mt. Carmel, IL
9/3/2015 11:00 AM	Illinois Pollution Control Board Meeting		Chicago James R. Thompson Center 100 W. Randolph Street Chicago
9/9/2015 10:00 AM	AC 15-26	<u>IEPA v. Joseph DeRosa & Gwen A. Griffiths and DeRosa Autobody</u>	Illinois Pollution Control Board, Conference Room 1244, 1021 North Grand Avenue East, North Entrance, Springfield, IL
9/17/2015 11:00 AM	Illinois Pollution Control Board Meeting		Chicago James R. Thompson Center 100 W. Randolph Street Chicago
9/24/2015 11:00 AM	R15-24	<u>In the Matter of: Water Pollution: Proposed Amendments to 35 Ill. Adm. Code Part 309</u>	James R. Thompson Center Room 9-034 100 W. Randolph Chicago
10/1/2015 11:00 AM	Illinois Pollution Control Board Meeting		Chicago James R. Thompson Center 100 W. Randolph Street Chicago
10/15/2015 11:00 AM	Illinois Pollution Control Board Meeting		Chicago James R. Thompson Center 100 W. Randolph Street Chicago
11/5/2015 11:00 AM	Illinois Pollution Control Board Meeting		Chicago James R. Thompson Center 100 W. Randolph Street Chicago

11/19/2015 11:00 AM	Illinois Pollution Control Board Meeting	Chicago James R. Thompson Center 100 W. Randolph Street Chicago
12/3/2015 11:00 AM	Illinois Pollution Control Board Meeting	Videoconference Chicago/Springfield James R. Thompson Center Hearing Room 11-512 100 W. Randolph Street Chicago And 1021 N. Grand Avenue East Oliver Holmes Conference Room 2012 N Springfield
12/17/2015 11:00 AM	Illinois Pollution Control Board Meeting	Chicago James R. Thompson Center 100 W. Randolph Street Chicago

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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