

ILLINOIS POLLUTION CONTROL BOARD

DRAFT MEETING MINUTES



November 6, 2003
Chicago/Springfield Videoconference
CHICAGO OFFICE – 100 W. Randolph Street
Videoconference Room 11-512
and
SPRINGFIELD OFFICE – 1021 N. Grand Avenue East
Oliver Holmes Conference Room 2012 N – Second Floor
11:00 A.M.

ANNOUNCEMENTS

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

ROLL CALL

The Clerk of the Board called the roll. All Board Members answered present except for Board Member Karpel who was absent.

APPROVAL OF MINUTES

Minutes of the October 16, 2003 meeting were approved by a vote of 6-0.

RULEMAKINGS

R03-20	<u>In the Matter of: Brownfields Site Restoration Program:</u> <u>Amendments to 35 Ill. Adm. Code 740</u> – The Board adopted a second notice opinion and order to establish procedures and standards for administering the new Brownfields Site Restoration Program.	6-0 R, Land
---------------	---	----------------

R03-21 In the Matter of: Radionuclide Restricted Status, Amendments to 35 Ill. Code 602.105, 602.106, 602.108, and 602.115 – The Board adopted a final opinion and order in this rulemaking to amend the Board’s public water supply regulations. Public water suppliers who execute enforceable commitments to achieve compliance with the radionuclide drinking water standard can be relieved of the new hook on ban imposed by the restricted status rules. 6-0
R, PWS

R04-1 In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (January 1, 2003 through June 30, 2003) – The Board adopted a proposal for public comment in this “identical-in-substance” rulemaking to amend the Board’s water pollution control regulations. 6-0
R, Water

R04-11 In the Matter of: Proposed Site-Specific Regulation Applicable to Ameren Energy Generating Company Amending 35 Ill. Adm. Code 901 – The Board accepted for hearing the October 28, 2003 proposal of the Ameren Energy Generating Company for a site-specific rulemaking to amend the Board’s noise pollution control regulations as they apply to its Antioch “peaker plant”. The Board also granted petitioner’s motions to waive the 200 signature requirement and for expedited review. 5-0
Tristano
abstained
R, Noise

ADMINISTRATIVE CITATIONS

AC 03-30 County of Ogle v. Rochelle Waste Disposal, L.L.C. and Clyde A. Gelderloos, Chief Operator, and City of Rochelle – The Board found that these Ogle County respondents violated Section 21(o)(1), (o)(5) and (12) of the Act (415 ILCS 5/2121(o)(1), (o)(5) and (12) (2002)) and ordered respondents to pay a civil penalty of \$1,500. 6-0

AC 04-3 County of Sangamon v. Louis Rutherford – The Board found that this Sangamon County respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2002)) and ordered respondent to pay a civil penalty of \$1,500. 6-0

AC 04-13 City of Chicago Department of Environment v. Eddie Greer – The Board accepted for hearing this petition for review of an administrative citation against this Cook County respondent. 6-0

AC 04-16 IEPA v. James Farley – The Board accepted for hearing this petition for review of an administrative citation against this Sangamon County respondent. 6-0

AC 04-19 IEPA v. Christopher Coleman – The Board accepted an administrative citation against this Union County respondent.

AC 04-20 IEPA v. Jerry Summers – The Board accepted an administrative citation against this Fayette County respondent.

AC 04-21 IEPA v. RCS, Inc., Jay Ross and Terry Robbins – The Board accepted an administrative citation against these Jersey County respondents.

AC 04-22 County of Vermilion v. Village of Tilton – The Board accepted an administrative citation against this Vermilion County respondent.

ADJUDICATORY CASES

Decisions

PCB 03-53	<u>People of the State of Illinois v. Northern Building Concepts, Inc. and Landscape Concepts Construction, Inc.</u> – In this water 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$12,500 and to cease and desist from further violations.	6-0 W-E
------------------	---	------------

Motions and Other Matters

PCB 96-10	<u>Vogue Tyre & Rubber Company v. IEPA</u> – No action taken.	UST Appeal
------------------	---	---------------

PCB 98-148	<u>People of the State of Illinois v. Doren Poland, Lloyd Yoho, and Briggs Industries, Inc.</u> – The Board granted respondent Briggs Industries, Inc.’s motion to modify the August 7, 2003 order.	6-0 L-E
-------------------	---	------------

PCB 99-19	<u>Karen & Anthony Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities</u> – No action taken.	A-E
------------------	--	-----

PCB 99-166	<u>Archer Daniels Midland Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this trade secret appeal involving a Macon County facility.	6-0 T-S
-------------------	--	------------

PCB 00-219	<u>Stephen G. Brill v. Henry Latoria individually and d/b/a T.L. Trucking Foodliner</u> – No action taken.	Citizens A&N-E
-------------------	--	-------------------

PCB 01-7	<u>People of the State of Illinois v. QC Finishers, Inc.</u> – No action taken.	A-E
-----------------	---	-----

PCB 02-03	<u>People of the State of Illinois v. Texaco Refining & Marketing, Inc.</u> – The Board granted complainant’s motion to strike in part and denied the motion in part. The Board granted the motion to strike nine of the thirteen alleged affirmative defenses raised by respondent, affirmative defenses 1, 2, 3, 5, 7, 9, 10, 11, and 13. The Board denied complainant’s motion to strike regarding four of the alleged affirmative defenses, affirmative defenses 4, 6, 8, and 12.	6-0 L&W-E
PCB 02-5	<u>People of the State of Illinois v. Environmental Management and Abatement, Inc. and Danny G. Kohrtd individually and as President of Environmental Management and Abatement, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Will County facility, the Board ordered publication of the required newspaper notice.	6-0 L-E
PCB 02-177	<u>People of the State of Illinois v. John Prior d/b/a Prior Oil Company and James Mezo d/b/a Mezo Oil Company</u> – The Board referred complainant’s motion for waiver of page limit requirements to the hearing officer for disposition.	L&W-E
PCB 03-13	<u>People of the State of Illinois v. Chicago Diversified Projects, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	6-0 A-E
PCB 03-14	<u>People of the State of Illinois v. Riba-Fairfield, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Macon County facility, the Board ordered publication of the required newspaper notice.	6-0 RCRA-E
PCB 03-22	<u>People of the State of Illinois v. Saint-Gobain Containers, Inc.</u> – No action taken.	A-E

PCB 03-38	<u>Morry Gabel, Myra Gabel, Don Foreman, Marsha Foreman, Keith Pinsoneault and Tracy Pinsoneault v. The Wealshire, Inc.</u> – The Board denied respondent’s motion to stay proceedings.	6-0 N-E
PCB 03-68	<u>Campton Township Highway Department 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 Kane County facility.	6-0 UST Appeal
PCB 03-73	<u>People of the State of Illinois v. Riverdale Recycling, Inc. and Tri-State Disposal, Inc.</u> – No action taken.	L-E
PCB 03-219	<u>Randall Industries v. IEPA</u> – The Board on its on motion dismissed this matter. This is a result of petitioner’s failure to comply with the Board’s order of September 18, 2003, which instructed petitioner to retain a licensed attorney and file an amended petition by October 18, 2003.	6-0 UST Appeal
PCB 03-226	<u>Pete’s Marathon 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 Marion County facility.	6-0 UST Appeal
PCB 03-232	<u>Gas For Less (Vista Marketing Group) 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 Winnebago County facility.	6-0 UST Appeal
PCB 04-6	<u>People of the State of Illinois v. Valley Run Stone</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Kendall County facility, the Board ordered publication of the required newspaper notice.	6-0 A-E

PCB 04-7	<u>People of the State of Illinois v. 4832 Vincennes, L.P and Batteast Construction Company of Inc.</u> – The Board granted respondent Batteast Construction Company of Illinois Inc.’s motion to be dismissed from this matter. The Board granted complainant’s motion for leave to file a first amended complaint and to substitute Batteast Construction Company, Inc. as a respondent, as indicated in the above caption.	6-0 A-E
PCB 04-10	<u>Illinois State Toll Highway Authority (Belvidere North CACR) v. IEPA</u> – A The Board accepted for hearing this underground storage tank appeal involving a Boone County facility.	6-0 UST Appeal
PCB 04-11	<u>Illinois State Toll Highway Authority (Belvidere North CAP) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Boone County facility.	6-0 UST Appeal
PCB 04-12	<u>Teresa L. Shepro, as Trustee of the Justice W. Shepro Trust, and Teresa L. Shepro and Frank Wiemerslage, as beneficiaries under Trust No. 898, of the Chicago Trust Company v. Newby Oil Company, David E. Tripp and Janice Tripp</u> – No action taken.	Citizens L&W-E
PCB 04-14	<u>McDonald’s Corporation v. IEPA</u> – No action taken.	UST Appeal
PCB 04-26	<u>Lynn Erickson v. Charleston Classic Homes and Lawrence E. VanSomeren, Jr.</u> – The Board found that the alleged violations in the complaint were neither duplicative nor frivolous, denied respondents’ motion to dismiss, and accepted for hearing this matter involving a DuPage County facility.	6-0 Citizens N-E

PCB 04-29	<u>The City of Chicago v. Purex Industries, Inc, Federal Die Casting Company, Federal Chicago Corporation, and Raymond E. Cross;</u>	6-0
PCB 03-55	<u>2222 Elston L.L.C. v. Purex Industries, Inc., Federal Die Casting Company, Federal Chicago Corporation, and Raymond E. Cross –</u> The Board found that the alleged violations in the complaint were neither duplicative nor frivolous, granted the motion to consolidate this matter with PCB 03-55, and accepted for hearing this matter involving a Cook County facility.	Citizens UST-E
PCB 04-33	<u>Byron Sandberg v. City of Kankakee, Illinois City Council and</u>	6-0
PCB 04-34	<u>Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.;</u>	P-C-F-S-R
PCB 04-35	<u>Waste Management of Illinois v. City of Kankakee, Illinois City Council and Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.;</u> <u>County of Kankakee, Illinois and Edward D. Smith, Kankakee County States Attorney v. City of Kankakee, Illinois City Council and Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C. –</u> The Board issued an order requesting the City of Kankakee to submit more information to aid in the Board’s determination of the motion to waive filing rock core samples.	3d Party
PCB 04-36	<u>Michael A. Petrosius and Darla G. Petrosius v. The Illinois State Toll Highway Authority –</u> The Board found that the alleged violations in the complaint were neither duplicative nor frivolous and accepted for hearing this matter involving a Cook County facility.	6-0 Citizens N-E
PCB 04-47	<u>Saint-Gobain Containers, Inc, v. IEPA –</u> The Board granted petitioner’s motion to stay effectiveness of the CAAPP Permit pending decision of this appeal.	6-0 P-A, Air

PCB 04-53	<u>Ameren Energy Generating Company (Selective Catalytic Reduction System)(Property Identification Number 04-000-172-00) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Ameren Energy Generating Company located in Montgomery County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 Tristano abstained T-C Air
PCB 04-54	<u>Central Illinois Light Company (Selective Catalytic Reduction System)(Property Identification Numbers 15-15-30-100-01, 15-15-31-100-01) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Central Illinois Light Company located in Fulton County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	6-0 T-C Air
PCB 04-55	<u>Dynegy Midwest Generation, Inc. (Refurbishment of the SO₂ Flue Gas Conditioning System (Property Identification Number 01-27-100-00) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. 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 (2002)).	6-0 T-C Air
PCB 04-56	<u>Dynegy Midwest Generation, Inc. (Refurbishment of Units 1 & 2 Electrostatic Precipitators)(Property Identification Number 01-27-100-000) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. 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 (2002)).	6-0 T-C Air

PCB 04-57	<u>Dynegy Midwest Generation, Inc. (Refurbishment of Unit 1 Electrostatic Precipitator)(Property Identification Number 17-20-300-006-0080) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Vermilion County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	6-0 T-C Air
PCB 04-58	<u>Dynegy Midwest Generation, Inc. (Refurbishment of Unit 2 Electrostatic Precipitator)(Property Identification Number 17-20-300-006-0080) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Vermilion County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	6-0 T-C Air
PCB 04-59	<u>Dynegy Midwest Generation, Inc. (Rapper Addition to Unit 5 Electrostatic Precipitator)(Property Identification Numbers 9-1-08-19-00-000-002; 9-1-08-19-00-000-006; and 19-1-08-20-00-000-010) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Madison County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	6-0 T-C Air
PCB 04-60	<u>Dynegy Midwest Generation, Inc. (Coal Dust Removal System)(Property Identification Number 04-36-200-008-0080) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynegy Midwest Generation, Inc. located in Mason County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	6-0 T-C Air

PCB 04-61	<u>Dynergy Midwest Generation, Inc. (Refurbishment of Low NO_x Burner Unit 3/Separated Overfire Air System)(Property Identification Number 02-10-100-001) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Dynergy Midwest Generation, Inc. located in Randolph County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	6-0 T-C Air
PCB 04-62	<u>Central Backtop Company, Inc. (Baghouse and Cyclone)(Property Identification Numbers 18-22-100-004, 18-22-100-008, 18-22-100-009, 18-22-100-010,18-22-100-014, 18-22-100-015, 18-22-100-016, 18-22-100-017, 18-22-100-018, 18-22-100-020, 18-22-100-021) v. IEPA</u> - Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Central Blacktop Company, Inc. located in Cook County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	6-0 T-C Air
PCB 04-63	<u>Equistar Chemicals, L.P. (Line 6 Sulzer Compressor Upgrade, Tank Car Aromatics Loading; LLDPE Flare Meter; PP Flare Meter; Ethylene Unit Analyzer; Particulate Emission Reduction Project; Parallel Flare Vaporizer; LDPE Compressor Shutdown Improvements; Lines 3 & 4 Hyper Suction GC Analyzer; Off-Gas Tie Ins; EP Capacity Increase; H2/C2 Analyzer; Ethylene Unit Flare Meter; EP Analyzer Replacement, and; PP Flare Monitor)(Property Identification Number110-032-1141) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Equistar Chemicals, L.P. located in Grundy County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	6-0 T-C Air
PCB 04-64	<u>McLean County School District No. 5 v. IEPA and The Town of Normal, Illinois</u> – The Board accepted for hearing this water well setback appeal involving a McLean County facility.	6-0 WWS

PCB 04-65	<u>Champion Laboratories, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving an Edwards County facility. No action was taken on petitioner’s motion to stay effectiveness of CAAPP Permit.	6-0 P-A
PCB 04-66	<u>Premcor Refining Group, Inc. v. IEPA</u> – The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of this Madison County facility.	6-0 RCRA Appeal 90-Day Ext.
PCB 04-67	<u>People of the State of Illinois v. Royal Trucking Company</u> – The Board accepted for hearing this water enforcement action involving a site located in Cook County.	6-0 W-E
PCB 04-68	<u>Martin Oil Marketing, Ltd. 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.	6-0 UST Appeal 90-Day Ext.
PCB 04-69	<u>Republic Bank of Chicago, as Trustee of Bank Trust #2234, Aristotle Halikias, Lena Halikias, Michael Halikias, Nikolas Halikias, Noula Halikias, and Patricia Halikias, as beneficiaries of Trust #2234 v. Sunoco, Inc. (R&M)</u> – The Board held for a later duplicative/frivolous determination this citizens’ underground storage tank enforcement action involving a Kane County facility. Member Melas announced that he would abstain from all deliberations in this matter.	Citizens UST-E
PCB 04-70	<u>Briarwood Country Club 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 Lake County facility.	6-0 UST Appeal 90-Day Ext.

PCB 04-71	<u>Paul Phelan 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 Macoupin County facility.	6-0 UST Appeal 90-Day Ext.
PCB 04-72	<u>Willaredt Oil Company 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 Macon County facility.	6-0 UST Appeal 90-Day Ext.
PCB 04-73	<u>A&R, 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 Cook County facility.	6-0 UST Appeal 90-Day Ext.
PCB 04-74	<u>Clearing Disposal 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.	6-0 UST Appeal 90-Day Ext.
PCB 04-75	<u>Mate Technologies, Inc. v. F.I.C. America Corporation</u> – The Board held for a later duplicative/frivolous determination this citizen’s land enforcement action involving a DuPage County facility.	Citizens L-E

PCB 04-76 Carrollton CUSD #1 v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Greene County facility. 6-0
UST
Appeal
90-Day
Ext.

PCB 04-77 Action Amusement Company v. IEPA – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Washington County facility. 6-0
UST
Appeal
90-Day
Ext.

PCB 04-78 Lemont Kar Gas v. IEPA – 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. 6-0
UST
Appeal
90-Day
Ext.

OTHER ITEMS

Chairman’s Motion to Designate November 20, 2003 Board Meeting as a Video-conference Meeting of the Board’s Chicago and Springfield Offices was granted by a vote of 6-0.

ADJOURNMENT

Moved and seconded, by a vote of 6-0, Chairman Johnson adjourned the meeting at 11:45 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on November 20, 2003, by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board