

ILLINOIS POLLUTION CONTROL BOARD

DRAFT MEETING MINUTES



MAY 6, 2004
SPRINGFIELD OFFICE
1021 N. Grand Avenue East
Conference Room 1244 N, First Floor
11:00 A.M.

ANNOUNCEMENTS

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

ROLL CALL

The Clerk of the Board, by her designee Connie Newman, called the roll. All Board Members answered present.

APPROVAL OF MINUTES

Minutes of the April 15, 2004 meeting were approved by a vote of 4-0. Member Girard abstained.

RULEMAKINGS

R03-19	<u>In the Matter of: Proposed Amendments to: Public Participation Rules in 35 Ill. Adm. Code Part 309 NPDES Permits and Permitting Procedures</u> – The Board adopted a final opinion and order in this rulemaking amending the permit provisions of the Board’s water pollution control regulations.	5-0 R, Water
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R04-11	<u>In the Matter of: Proposed Site Specific Rulemaking Ameren Energy Generating Company Amending 35 Ill. Adm. Code 901</u> – The Board granted petitioner’s motion for leave to file a response and its motion to supplement the record and the Office of the Attorney General’s (AGO) motion for leave to file a reply, and accepts its reply. The Board granted the AGO’s motion for leave to file a reply, and accepts its reply. The Board denied the AGO’s motions to deny the motion for leave to file, to deny the motion to supplement the record, and to strike the response and the documents intended to supplement the record. The Board gave the AGO leave to file a response or otherwise provide additional information.	5-0 R, Noise
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R04-22	<u>In the Matter of: Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732); In the Matter of Proposed Amendments to Regulation of Petroleum Underground Storage Tanks (35 Ill. Adm. Code 734)</u> – No action taken.	R, Land
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R04-25	<u>In the Matter of: Proposed Amendments to Dissolved Oxygen Standard 35 Ill. Adm. Code 302.206</u> – The Board accepted for hearing the April 19, 2004 proposal of the Illinois Association of Wastewater Agencies to amend the Board’s water pollution control regulations. The Board also granted petitioner’s motion to waive the 200 signature requirement.	5-0 R, Water
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ADJUSTED STANDARDS

AS 01-10	<u>In the Matter of: Prairie-Materials Sales, Inc. Petition for an Adjusted Standard from 35 Ill. Adm. Code Parts 811 and 814</u> – No action taken.	Land
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AS 04-2	<u>In the Matter of: Petition of Jo’Lyn Corporation and Falcon Waste and Recycling for an Adjusted Standard from 35 Ill. Adm. Code Part 807 or in the Alternative A Finding of Inapplicability</u> – Pending receipt of the certificate of publication, the Board held this Hancock County facility’s petition for an adjusted standard from the Board’s solid waste pollution control regulations. The Board also held the motion for expedited decision.	Land
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AS 04-3 In the Matter of: Petition by Hayden Wrecking Corporation for an Adjusted Standard from 35 Ill. Adm. Code Section 620.410(a) – Pending receipt of the certificate of publication, the Board held this Hancock County facility’s petition for an adjusted standard from the Board’s groundwater quality regulations. Water

ADMINISTRATIVE CITATIONS

AC 03-27 IEPA v. Vince Harvey – The Board entered an order requiring respondent to pay the Board hearing costs in the amount of \$343.74 and a civil penalty of \$3,000. This order follows the Board’s interim order of April 1, 2004, which found that this respondent had violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2002)) at his Henry County facility. 5-0

AC 04-16 IEPA v. James Farley – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Sangamon County facility, the Board found respondent violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2002)) 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. 5-0

AC 04-25 IEPA v. Colorado Real Estate & Investment Company (Kingspark Mobile Estates) – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Peoria County facility, the Board found respondents violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3) (2002)) and ordered respondents to pay a civil penalty of \$4,500. The Board also granted the parties’ joint motion to dismiss respondent’s petition for review. 5-0

AC 04-43	<u>County of Jackson v. Frank Stonemark</u> – The Board accepted for hearing this petition for review of an administrative citation against this Jackson County respondent.	5-0
AC 04-52	<u>IEPA v. Glen Cooper, Betty Cooper and Ronald Gernay d/b/a Ron’s Sandblasting, Painting and Power Washing</u> – The Board dismissed respondents Glenn Cooper and Ronald Gernay March 25, 2004 petition for review as deficient. The Board found that these Cass County respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)), and ordered respondents to pay a civil penalty of \$1,500.	5-0
AC 04-54	<u>IEPA v. U.S. Scrap Metal</u> – The Board found that this Macon County respondent violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)), and ordered respondent to pay a civil penalty of \$1,500.	5-0
AC 04-55	<u>IEPA v. Josiah W. Collins II and Lori Hilton</u> – The Board found that these McDonough County respondents violated Section 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2002)), and ordered respondents to pay a civil penalty of \$4,500.	5-0
AC 04-56	<u>County of Vermilion v. Jerry Hathaway and Darrell Cripe</u> – The Board found that these Vermilion County respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)), and ordered respondents to pay a civil penalty of \$1,500.	5-0
AC 04-57	<u>IEPA v. Arlyn Ray d/b/a Arlyn Ray Construction, Tom Romero d/b/a Arlyn Ray Exteriors, Robert J. Adams and Rita M. Adams</u> – No action taken.	
AC 04-66	<u>IEPA v. Curry Ice & Coal of Springfield, Inc., and Curry Ready Mix & Builder’s Supply, Inc.</u> – The Board accepted an administrative citation against these Sangamon County respondents.	

AC 04-67 City of Chicago Department of Environment v. Kenneth Harris –
The Board accepted an administrative citation against this
Cook County respondent.

AC 04-68 City of Chicago Department of Environment v. Kenneth Harris –
The Board accepted an administrative citation against this
Cook County respondent.

AC 04-69 City of Chicago Department of Environment v. Kenneth Harris –
The Board accepted an administrative citation against this
Cook County respondent.

AC 04-70 City of Chicago Department of Environment v. K. Harris Trucking
& Excavating Company – The Board accepted an administrative
citation against this Cook County respondent.

AC 04-65 IEPA v. Knox County Landfill Committee and Greg Ingles – The
Board accepted an administrative citation against these
Knox County respondents.

AC 04-71 City of Chicago Department of Environment v. K. Harris Trucking
& Excavating Company – The Board accepted an administrative
citation against this Cook County respondent.

AC 04-72 City of Chicago Department of Environment v. K. Harris Trucking
& Excavating Company – The Board accepted an administrative
citation against this Cook County respondent.

AC 04-73 City of Chicago Department of Environment v. Zepeda
Construction Services, Inc. – The Board accepted an administrative
citation against this Cook County respondent.

AC 04-74 City of Chicago Department of Environment v. Samuel Zepeda, Sr.
– The Board accepted an administrative citation against this
Cook County respondent.

ADJUDICATORY CASES

Decisions

PCB 97-69	<u>People of the State of Illinois v. Economy Plating, Inc.</u> – The Board entered a final order, ordering respondent to pay civil penalties in the amount of \$5,000. This order incorporates by reference the August 21, 2003 order which granted complainant summary judgment on all five counts of the second amended complaint. The Board found that respondents violated Sections 9(a), (b), and 9.1(d)(1) of the Environmental Protection Act and Sections 201.142, 201.143, 201.302, 201.144, 254.102(c), and 254.402 of the Board’s air pollution regulations at a site located in Cook County. 415 ILCS 5/9(a), (b), and 9.1(d)(1) (2002); 35 Ill. Adm. Code 201.142, 201.143, 201.302, 201.144, 254.102(c), and 254.402.	5-0 A-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 found that respondents violated the following provisions of the Environmental Protection Act (Act) and the Board’s regulations: Sections 12(a) and (d) (415 ILCS 5/12(a), (d) (2002)); Sections 21(a), (d)(1), (d)(2), (e), (p)(1), and (p)(6) of the Act (415 ILCS 5/21(a), (d)(1), (d)(2), (e), (p)(1), (p)(6) (2002)); 35 Ill. Adm. Code 302.203, 722.111, 739.122(c), (d), 808.121, 812.101(a) at four sites located in Washington County. The Board ordered the respondents to pay a total civil penalty of \$303,500 and to reimburse the Office of the Attorney General \$6,600 for attorney fees.	4-1 Johnson dissented L,W-E
PCB 04-117	<u>Saline County Landfill, Inc. v. IEPA and Saline County</u> – The Board reversed the December 5, 2003 denial of permit. The Board remanded the case to the Illinois Environmental Protection Agency to issue the requested permit.	5-0 P-A, Land

PCB 04-161	<u>People of the State of Illinois v. Conocophillips Company</u> – In this air enforcement action concerning a Madison County facility, the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$35,386 and to cease and desist from further violations.	5-0 A-E
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Motions and Other Matters

PCB 99-187	<u>Gina Pattermann v. Boughton Trucking and Materials, Inc.</u> – The Board granted respondent’s motion for summary judgment with respect to the alleged numerical noise violations, Sections 901.102(a), (b) and 901.104 of the Board’s regulations. 35 Ill. Adm. Code 901.102(a), (b), 901.104. The Board denied respondent’s motion for summary judgment with respect to the nuisance noise and air violations, Sections 9(a) and 24 of the Act and Sections 201.141 and 900.102 (415 ILCS 5/9(a) (2002), 24 and 35 Ill. Adm. Code 201.141, 900.102) of the Board’s regulations. The Board directed the parties to proceed to hearing on those issues and the issue of remedy.	5-0 A&N-E
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PCB 00-104	<u>People of the State of Illinois v. The Highlands, L.L.C. and Murphy Farms, Inc. a division of Murphy Brown, L.L.C., and Smithfield Foods, Inc.</u> – The Board granted complainant’s motion for leave to amend the complaint and accepted the second amended complaint for hearing.	5-0 A&W-E
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PCB 01-7	<u>People of the State of Illinois v. QC Finishers, Inc.</u> – No action taken.	A-E
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PCB 01-102	<u>Cassen and Sons, Inc. v. IEPA</u> – No action taken.	UST Appeal
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PCB 01-104	<u>People of the State of Illinois v. City of Waukegan</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action involving a Lake County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 03-51	<u>People of the State of Illinois v. Draw Drape Cleaners, Inc., American Drapery Cleaners, and Flameproofers, Inc.</u> – No action taken.	A-E
PCB 03-106	<u>Village of South Elgin v. Waste Management of Illinois, Inc.</u> – No action taken.	L-E
PCB 03-188	<u>Prime Time Citgo, Inc. and Alphonsus Olieh</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Kane County facility.	5-0 UST Appeal
PCB 03-214	<u>Illinois Ayers Oil Company v. IEPA</u> – No action taken.	UST Appeal
PCB 03-235	<u>United Disposal of Bradley, Inc. and Municipal Trust & Savings Bank as Trustee Under Trust 0799 v. IEPA</u> – No action taken.	P-A, Land
PCB 04-9	<u>People of the State of Illinois v. Aargus Plastics, Inc.</u> – No action taken.	A-E
PCB 04-48	<u>Village of Robbins and Allied Waste Transportation, Inc. v. IEPA</u> – No action taken.	P-A, Land
PCB 04-81	<u>People of the State of Illinois v. Emmett Utilities, Inc. and Russell D. Thorell individually and as president of Emmett Utilities, Inc.</u> – The Board denied complainant’s motions for summary judgment. No action was taken on respondent Thorell’s motion to dismiss.	5-0 PWS-E

PCB 04-103	<u>Illinois State Toll Highway Authority (Des Plaines South) v. IEPA</u> ; <u>Illinois State Toll Highway Authority (Des Plaines South) v. IEPA</u> – The Board granted petitioner’s motion to consolidate PCB 04-103 and PCB 04-119.	5-0
PCB 04-119		UST Appeal
PCB 04-116	<u>Oasis Industries, Inc. v. IEPA</u> – The Board granted petitioner’s motion to stay effectiveness of the CAAPP Permit pending decision of this appeal.	5-0 P-A, Air
PCB 04-120	<u>Didier Greenhouses, Inc. 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.	5-0 UST Appeal
PCB 04-128	<u>WEWS, L.P. (The Boye Needle Facility) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	5-0 UST Appeal
PCB 04-129	<u>Brock Oil Company v. IEPA</u> – Having previously granted a request for a 90-day extension, the Board dismissed this matter because no underground storage tank appeal was filed on behalf of this McLean County facility.	5-0 UST Appeal
PCB 04-130	<u>Drake Tower Apartments, Inc. 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 Cook County facility.	5-0 UST Appeal
PCB 04-165	<u>People of the State of Illinois v. Medical Waste Management, Inc.</u> – The Board granted complainant’s motion for voluntary dismissal of this enforcement action.	5-0 L-E
PCB 02-205	<u>Home Oil Company v. IEPA</u> – The Board dismissed this petition for review as untimely filed. The motion to consolidate was denied as moot.	5-0
PCB 02-206		UST
PCB 04-172		Appeal

PCB 04-180	<u>Larry Weineke 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 Massac County facility.	5-0 UST Appeal 90-Day Ext.
PCB 04-181	<u>Keller Oil Company/Edgewood v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Effingham County facility.	5-0 UST Appeal
PCB 04-182	<u>Strohm 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 Crawford County facility.	5-0 UST Appeal 90-Day Ext.
PCB 04-183	<u>Johnson 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 Vermilion County facility.	5-0 UST Appeal 90-Day Ext.
PCB 04-184	<u>Pete’s Marathon 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 Marion County facility.	5-0 UST Appeal 90-Day Ext.
PCB 04-185	<u>Midwest Generation EMF, L.L.C. v. IEPA</u> – The Board accepted for hearing this trade secret appeal.	5-0 T-S, Appeal
PCB 04-186	<u>Waste Management of Illinois, Inc. v. County Board of Kankakee County, Illinois</u> – No action taken.	P-C-F-S-R

PCB 04-187	<u>Sutter Sanitation, Inc. and LaVonne Haker v. IEPA</u> – The Board accepted for hearing this permit appeal involving an Effingham County facility.	5-0 P-A, Land
PCB 04-188	<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.	5-0 UST Appeal 90-Day Ext.
PCB 04-189	<u>Wabash Valley Service 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 Lawrence County facility.	5-0 UST Appeal 90-Day Ext.
PCB 04-190	<u>Johnson 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 Champaign County facility.	5-0 UST Appeal 90-Day Ext.

CASES PENDING DECISION

R04-13	<u>In the Matter of: SDWA Update, USEPA Amendments (July 1, 2003 through December 31, 2003)</u> – Proposed Rule, Proposal for Public Comment, Opinion and Order	R, PWS
AC 03-13	<u>IEPA v. Dan Cadwallader</u> – Opinion and Order	
PCB 03-185	<u>Swif-T-Food Mart (IEPA Letters dated March 3, 2003 and December 1, 1995 to November 20, 2001) v. IEPA</u> – (due 5/20)	UST Appeal

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Novak adjourned the meeting to an executive session at 11:47 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on May 20, 2004, by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board