

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



August 7, 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.

APPROVAL OF MINUTES

Minutes of the July 24, 2003 meeting were approved by a vote of 6-0. Board Member Karpziel abstained.

RULEMAKINGS

R04-2	<u>In the Matter of: Exemptions from the Definition of VOM Update, USEPA Regulations (January 1, 2003 through June 30, 2003</u> – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its exemptions from the definition of volatile organic material during the update period of January 1, 2003 through June 30, 2003.	7-0 R. Air
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R04-4 In the Matter of: UIC Update, USEPA Regulations (January 1, 2003 through June 30, 2003) – 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, 2003 through June 30, 2003. 7-0
R, Land

R04-6 In the Matter of: RCRA Subtitle C Update, USEPA Regulations (January 1, 2003 through June 30, 2003) – 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, 2003 through June 30, 2003. 7-0
R, Land

R04-7 In the Matter of: UST Update, USEPA Regulations (January 1, 2003 through June 30, 2003) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its exemptions from the definition of underground storage tank during the update period of January 1, 2003 through June 30, 2003. 7-0
R, Land

ADJUSTED STANDARDS

AS 01-3 In the Matter of: Petition of DeKalb Sanitary District for an Adjusted Standard from 35 Ill. Adm. Code 302.208(e) – The Board granted petitioner’s motion for voluntary dismissal of this request for an adjusted standard involving a DeKalb County facility. 7-0
Water

AS 03-5 In the Matter of: Petition of Cromwell-Phoenix, Inc. for an Adjusted Standard from 35 Ill. Adm. Code Subpart F, Section 218.204(c) – The Board granted petitioner’s motions for expedited review and transcripts. 7-0
Air

ADMINISTRATIVE CITATIONS

AC 03-35 IEPA v. Denny D. Richey – No action taken.

AC 04-1 County of Montgomery v. Luie and Mary Pease – The Board accepted an administrative citation against these Montgomery County respondents.

AC 04-2 County of Sangamon v. William McGlauchlen – The Board accepted an administrative citation against this Sangamon County respondent.

AC 04-3 County of Sangamon v. Louis Rutherford – The Board accepted an administrative citation against this Sangamon County respondent.

ADJUDICATORY CASES

Decisions

PCB 95-180 People of the State of Illinois v. Archer Daniels Midland Company 7-0
– In this air enforcement action concerning a Macon 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 \$160,000 and to cease and desist from further violations. A-E

PCB 97-33 People of the State of Illinois v. Archer Daniels Midland Company 7-0
– In this air enforcement action concerning a Peoria 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 \$80,000 and to cease and desist from further violations. A-E

PCB 98-148 People of the State of Illinois v. Doren Poland, Lloyd Yoho, and Briggs Industries, Inc. a/k/a Briggs Plumbing Products, Inc.; Briggs Industries, Inc., Third-Party Complainants v. Loren West and Abingdon Salvage Company, Inc., Third Party Respondents – The Board entered a final order finding respondent Briggs liable for civil penalties in the amount of \$25,000 and Poland and Yoho liable for civil penalties in the amount of \$5,000. The Board also ordered respondents to remediate the unpermitted area by applying a final cover. This order follows the Board's interim order of September 6, 2001, which found that respondents violated Sections 21(a), (d), (e), and (p)(1) of the Environmental Protection Act (415 ILCS 5/21(a), (d), (e), (p)(1) (2002)) and 35 Ill. Adm. Code 807.201, 807.202(a), 812.101 of the Board's waste disposal regulations at a site located in Knox County. The Board ordered that the third-party complaint be remanded to the hearing officer for hearing.

7-0
L-E

PCB 99-92 People of the State of Illinois v. Hartz Construction Co., Inc. – In this land enforcement action concerning a Cook 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 \$31,500 and to cease and desist from further violations.

7-0
L-E

PCB 00-219 Stephen G. Brill v. Henry Latoria d/b/a TL Trucking Foodliner – The Board entered a final order, which ordered respondent to implement physical and operational noise reduction measures to eliminate the unreasonable noise interferences. This order follows the Board's interim order of June 6, 2002, which found that respondent violated Sections 9(a) and 24 of the Environmental Protection Act (415 ILCS 5/9(a), 24 2002) and 35 Ill. Adm. Code 900.102 of the Board's regulations at a site located in Cook County.

7-0
Citizens
A&N-E

PCB 03-125	<u>City of Kankakee v. County of Kankakee, County Board of Kankakee, and Waste Management of Illinois, Inc.; Merlin Karlock</u>	7-0
PCB 03-133	<u>v. County of Kankakee, County Board of Kankakee, and Waste Management of Illinois, Inc.; Michael Watson v. County of Kankakee, County Board of Kankakee, and Waste Management of Illinois, Inc.; and Keith Runyon v. County of Kankakee, County Board of Kankakee, and Waste Management, Inc. – The Board vacated the Kankakee County Board’s (County Board) January 31, 2003 decision granting an application for expansion of a pollution control facility owned and operated by Waste Management of Illinois, Inc. for the facility located in Kankakee County, Illinois. The Board found that the County Board lacked jurisdiction to review the siting application.</u>	P-C-F-S-R

Motions and Other Matters

PCB 96-10	<u>Vogue Tyre & Rubber Company v. IEPA – No action taken.</u>	P-A, Land
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PCB 96-143	<u>People of the State of Illinois v. Michel Grain Company, Inc. d/b/a Michel Fertilizer, Caryle Michel, and Ronnie Todd – No action taken.</u>	W-E
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PCB 97-9	<u>People of the State of Illinois v. C&S Recycling, Inc., Flood Brothers Disposal Company, Inc., William Flood, Individually and as Treasurer of C&S Recycling, and Brian Flood, Individually and as President of C&S Recycling – 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.</u>	7-0 L-E
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PCB 97-69	<u>People of the State of Illinois v. Economy Plating, Inc. – No action taken.</u>	A-E
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PCB 98-169	<u>Union Oil Company of California d/b/a Unocal v. Barge-Way Oil Company, Inc., Gertrude Kellogg, Joseph Kellogg, DuPage Enterprises, Inc. d/b/a Dunn Rent-A-Car, Jan P. Skladany, and Carl J. Skladany</u> – The Board granted complainant’s motion for voluntary dismissal of this citizen’s land enforcement action involving a DuPage County facility.	7-0 L-E
PCB 99-187	<u>Gina Pattermann v. Boughton Trucking and Materials, Inc.</u> – The Board granted respondent’s motion for discovery sanctions in part and denied the motion in part. The Board bared Mr. Greg Zak’s testimony at hearing, but denied respondent’s motion to bar any other witnesses, pleadings, or documents pertaining to the subject matter of Mr. Zak’s proposed testimony. The Board also denied respondent’s motion for attorney fees.	7-0 A&N-E
PCB 00-104	<u>People of the State of Illinois v. The Highlands, L.L.C., Murphy Farms, Inc., and Smithfield Foods, Inc.</u> – No action taken.	A-E
PCB 00-163	<u>David and Jacquelyn McDonough v. Gary Robke</u> – No action taken.	Citizens N-E
PCB 00-180	<u>People of the State of Illinois v. Jacobs Energy Corporation</u> – The Board granted respondent’s motion for modification of its July 10, 2003 order.	7-0 A&L-E
PCB 01-43	<u>People of the State of Illinois v. Michael Stringini</u> – No action taken.	L-E
PCB 01-121	<u>Abed Nesheiwat and SAQ, Inc. (Tony’s Gas) v. IEPA</u> – The Board ordered petitioner to retain an attorney within 30 days, or this matter would be subject to dismissal.	7-0 UST Appeal
PCB 02-03	<u>People of the State of Illinois v. Texaco Refining & Marketing, Inc.</u> – No action taken.	L&W-E

PCB 02-77	<u>People of the State of Illinois v. Millenium Recycling and Solid Waste Consultants, Inc.</u> – No action taken.	L-E
PCB 02-115	<u>People of the State of Illinois v. Blue Ridge Construction Corporation</u> – The Board granted complainant’s motion for partial summary judgment against respondent. The Board found that respondent violated Sections 9(a), 12(d), 21(a), (e), (p)(1) and (p)(2) of the Environmental Protection Act (415 ILCS 5/9(a), 9(a), 12(d), 21(a), (e), (p)(1) and (p)(2) 2002), 35 Ill. Adm. Code 201.141 of the Board’s regulations, and 40 C.F.R. 61.145(a) and (b)(1) of the National Emission Standards for Hazardous Air Pollutants. The Board directed the parties to hearing as expeditiously as practicable on the specific issue of penalty.	7-0 A&W-E
PCB 02-164	<u>Barbara and Ronald Stuart v. Franklin Fisher</u> – The Board denied respondent’s motion for site visit.	7-0 Citizens N-E
PCB 03-51	<u>People of the State of Illinois v. Draw Drape Cleaners, Inc.</u> – No action taken.	A-E
PCB 03-87	<u>Main Station v. IEPA</u> – No action taken.	UST Appeal
PCB 03-96	<u>Martin E. & Kathy L. Geber v. Carri Scharf Trucking and Materials, Carri Scharf Materials Company, and East Side Materials, L.L.C.</u> – No action taken.	N-E
PCB 03-144	<u>Waste Management of Illinois, Inc. v. County Board of Kankakee County, Illinois</u> – The Board granted petitioner’s motion to dismiss this appeal of siting conditions for a facility located in Kankakee County, Illinois.	7-0 P-C-F-S-R

PCB 03-191	<u>People of the State of Illinois v. Community Landfill Company, Inc., and the City of Morris</u> – No action taken.	L-E
PCB 03-200	<u>Earl’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 Cook County facility.	7-0 UST Appeal
PCB 03-205	<u>Jack’s 66 Service Station 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 Madison County facility.	7-0 UST Appeal
PCB 03-207	<u>Silvestri Paving Company (September 11, 2002 to November 19, 2002) 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.	7-0 UST Appeal
PCB 03-212	<u>Wareco Service, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Knox County facility.	7-0 UST Appeal
PCB 03-213	<u>Winslow Boco (Strata Geologic Services, Inc.) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Stephenson County facility.	7-0 UST Appeal
PCB 03-221	<u>Lowe Transfer, Inc. and Marshall Lowe v. County Board of McHenry County, Illinois</u> – The Board granted petitioners’ motion to strike, but denied petitioners’ motion for sanctions. In addition, the Board struck the Village of Cary’s motion and the response to the motion to strike and request for sanctions. Finally, the Board granted in part and denied petitioners’ motion <i>in limine</i> .	7-0 P-C-F-S-R
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 03-237	<u>Estate of Olivia Tyberendt v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Clinton County facility.	7-0 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> – The Board held for a later duplicative/frivolous determination this citizen’s noise enforcement action involving a DeKalb County facility.	Citizens L&W-E
PCB 04-13	<u>People of the State of Illinois v. Intermatic Incorporated</u> – The Board accepted for hearing this air enforcement action involving a McHenry County facility.	7-0 A-E
PCB 04-14	<u>McDonald’s Corporation v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	7-0 UST Appeal
PCB 04-15	<u>People of the State of Illinois v. Atkinson Grain & Fertilizer, Inc.</u> – The Board accepted for hearing this water enforcement action involving a Henry County facility.	7-0 W-E

CASES PENDING DECISION

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> – Proposed Rule, First Notice, Opinion and Order	R, Water
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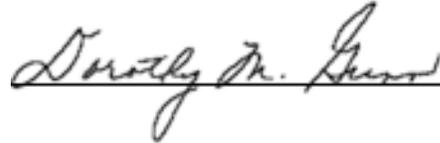
OTHER ITEMS

Chairman’s Motion to change Springfield board meeting location was granted by a vote of 7-0.

ADJOURNMENT

Moved and seconded, by a vote of 7-0, 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 August 21, 2003, by a vote of 7-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board