

ILLINOIS POLLUTION CONTROL BOARD

DRAFT MEETING MINUTES



March 4, 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 February 19, 2004 meeting were approved by a vote of 5-0.

RULEMAKINGS

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| R03-9 | <u>In the Matter of: Proposed New and Updated Rules for Measurement and Numerical Sound Emissions Standards Amendments to 35 Ill. Adm. Code 901 and 910</u> – The Board issued an order authorizing two additional hearings and the publishing of a second first notice opinion and order which includes consideration of changes in site-specific regulations. | 5-0
R, Noise |
| R04-3 | <u>In the Matter of: SDWA Update, USEPA Amendments (January 1, 2003 through June 30, 2003)</u> – The Board adopted a final opinion and order in this “identical-in-substance” rulemaking amending the Board’s public water supply regulations. | 5-0
R, Water |
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R04-14 In the Matter of: UIC Update, USEPA Amendments (July 1, 2003 through December 31, 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 July 1, 2003 through December 31, 2003. 5-0
R, Land

R04-17 In the Matter of: UST Update, USEPA Amendments (July 1, 2003 through December 31, 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 July 1, 2003 through December 31, 2003. 5-0
R, Land

R04-19 In the Matter of: Definition of VOM Update, USEPA Amendments (July 1, 2003 through December 31, 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 volatile organic material during the update period of July 1, 2003 through December 31, 2003. 5-0
R, Air

ADMINISTRATIVE CITATIONS

AC 04-36 IEPA v. V-Max Materials, Inc. – The Board found that this Grundy 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. 5-0

AC 04-31 IEPA v. Equipping the Saints Ministry, Inc. – No action taken.

AC 04-41 IEPA v. Cheryl Clayton – The Board accepted for hearing this petition for review of an administrative citation against this Adams County respondent. 5-0

AC 04-43 County of Jackson v. Frank Stonemark – The Board denied respondent’s motion to extend time to file petition to contest administrative citation, but considered the request itself to be a deficient petition for review. The Board ordered petitioner file an amended petition for review curing deficiencies, by March 31, 2004, or this matter would be subject to dismissal. 5-0

AC 04-45 IEPA v. Herbert Lust d/b/a Bement Plumbing Supply Company and Francis Ann Lust – The Board accepted for hearing this petition for review of an administrative citation against these Piatt County respondents. 5-0

AC 04-46 IEPA v. Christopher Coleman – The Board accepted for hearing this petition for review of an administrative citation against this Union County respondent. 5-0

AC 04-47 IEPA v. James Haas, Jr. – The Board accepted an administrative citation against this Carroll County respondent.

AC 04-48 IEPA v. Russell V. Weller, Evelyn L. Weller and Springfield Iron and Metal Co., Inc. – The Board accepted an administrative citation against these Sangamon County respondents.

AC 04-49 IEPA v. Bill Marshall – The Board accepted an administrative citation against this White County respondent.

AC 04-50 IEPA v. American Disposal Services of Illinois, Inc. and David Bryant – The Board accepted an administrative citation against these Livingston County respondents.

AC 04-51 IEPA v. Michael Moreton - The Board accepted an administrative citation against this Coles County respondent.

AC 04-52 IEPA v. Glenn Cooper, Betty Cooper and Ronald Gernay d/b/a Ron's Sandblasting, Painting and Power Washing - The Board accepted an administrative citation against these Cass County respondents.

AC 04-53 IEPA v. Roy Bell – The Board accepted an administrative citation against this Jersey County respondent.

ADJUDICATORY CASES

Motions and Other Matters

PCB 97-119 People of the State of Illinois v. G&M Total, Inc., George Papas individually and as president of G&M Total, Inc. – The Board granted complainant's motion for summary judgment in part, finding that respondents violated Sections 35 Ill. Adm. Code 731.160, 731.162, and 731.163 of the Board's underground storage tank regulations. The Board, however, denied the complainant's motion for summary judgment regarding the alleged violation of 415 ILCS 5/12(a) (2002) of the Environmental Protection Act and the requested relief, and ordered the parties to hearing on those remaining issues. 5-0
L-E

PCB 97-193 People of the State of Illinois v. Community Landfill Company, Inc. – No action taken. L-E

PCB 99-19 Karen & Anthony Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities – The Board granted respondent's motion to stay its February 5, 2004 order pending appellate review. 5-0
A-E

PCB 99-187 Gina Pattermann v. Boughton Trucking and Materials, Inc. – No action taken. A&N-E

PCB 00-163 David and Jacquelyn McDonough v. Gary Robke – No action taken. N-E

PCB 01-7	<u>People of the State of Illinois v. QC Finishers, Inc.</u> – No action taken.	A-E
PCB 01-167	<u>People of the State of Illinois v. ESG Watts, Inc.</u> – No action taken.	A,L,&W-E
PCB 02-186	<u>People of the State of Illinois v. Van Melle U.S.A., Inc.</u> – The Board denied the motion to strike the second affirmative defense alleging that a third party is responsible for the alleged violations but struck the third affirmative defense alleging that the Agency’s actions in denying permits were “unlawful”. Finally, the Board reserved ruling on the first affirmative defense of <i>laches</i> for 30 days, finding that the affirmative defense of <i>laches</i> has not been sufficiently plead. The Board directed respondent to file an amended response by April 5, 2004, or the Board will strike the affirmative defense.	5-0 A-E
PCB 03-218	<u>Rochelle Waste Disposal, L.L.C. v. City Council of The City of Rochelle, Illinois</u> – No action taken.	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 04-4	<u>People of the State of Illinois v. Best-Way Construction & Remediation, Inc. and Clinton 6 L.L.C.</u> – Upon receipt of 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 A-E
PCB 04-75	<u>Mate Technologies, Inc. v. F.I.C. America Corporation</u> – No action taken.	L-E
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> – No action taken.	PWS-E

PCB 04-85	<u>Robert and Tony Thompson v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving an Alexander County facility.	5-0 UST Appeal
PCB 04-98	<u>People of the State of Illinois v. Onyx Environmental Services, L.L.C. and Aura II, Inc.</u> – The Board accepted for hearing this permit appeal involving a LaSalle County facility. The Board granted attorney Debra A. Salter permission to appear <i>pro hac vice</i> on behalf of respondent Aura II, Inc.	5-0 A,L,&W-E
PCB 04-142	<u>People of the State of Illinois v. Village of Poplar Grove and R.H. Batterman & Company, Inc.</u> – The Board accepted for hearing this public water supply enforcement action involving a site located in Boone County.	5-0 PWS-E
PCB 04-143 PCB 04-145	<u>Great Lakes Dredge & Dock Company v. IEPA</u> – The Board accepted for hearing the January 14, 2004 rejection of an October 2003 first amendment to the Site Investigation Budget, as PCB 04-143. On its own motion, the Board reserved a second docket, PCB 04-145 for the review of the February 9, 2004 rejection of the October 2003 corrective action plan and associated budget. Petitioner was directed to file an amended petition under docket number PCB 04-145, accompanied by the statutory filing fee, within 35 days of the date of this order <i>i.e.</i> on or before April 8, 2004.	5-0 UST Appeal
PCB 04-144	<u>Bryant Automotive 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 McHenry County facility.	5-0 UST Appeal 90-Day Ext.

CASES PENDING DECISION

R04-5 In the Matter of: RCRA Subtitle D (Municipal Solid Waste
R04-15 Landfill) Update, USEPA Amendments (January 1, 2003 through
Cons. June 30, 2003; In the Matter of: RCRA Subtitle C (Hazardous
Waste) Update, USEPA Amendments (July 1, 2003 through
December 31, 2003) – Proposed Rule, Proposal for Public
Comment

R04-8 In the Matter of: Amendments to the Board’s Procedural Rules: 35
Ill. Adm. Code 101-130 – Proposed Rule, First Notice, Opinion and
Order

PCB 04-33 Byron Sandberg v. City of Kankakee, Illinois City Council and
PCB 04-34 Town and Country Utilities, Inc. and Kankakee Regional Landfill,
PCB 04-35 L.L.C.; Waste Management of Illinois v. City of Kankakee, Illinois
Cons. City Council and Town and Country Utilities, Inc. and Kankakee
Regional Landfill, L.L.C.; 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. – due 3/18 (see also
City of Kankakee’s Motion to Waive Necessity of Filing of Rock
Core Samples (10/23), Respondents Kankakee Regional Landfill
and Town & Country Utilities’ Motion for Leave to File Brief in
Excess of 50 Page Limit (1/9))

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Novak adjourned the meeting at 11:26 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on March 18, 2004, by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board