

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



April 21, 2005
CHICAGO OFFICE – 100 W. Randolph Street
Conference Room 9-040
11:00 A.M.

ANNOUNCEMENTS

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

ROLL CALL

The Clerk of the Board called the roll.

APPROVAL OF MINUTES

Minutes of the April 7, 2005 meeting were approved by a vote of 4-0, Member Girard abstained. Chairman Novak congratulated and thanked Senior Attorney Kathleen Crowley for 25 years of service to the Board. The Chairman also read a letter from Governor Rod R. Blagojevich congratulating her on behalf of the People of the State of Illinois.

RULEMAKINGS

R04-12	<u>In the Matter of: Technical Corrections to Formulas in 35 Ill. Adm. Code 214; In the Matter of: Clean-Up Part III, Amendments to 35 Ill. Adm. Code Part 211, 218, and 219</u> – The Board adopted a first notice proposal to amend the Board’s air regulations.	5-0
R04-20 (cons.)		R, Air
R05-4	<u>In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (January 1, 2004 through June 30, 2004)</u> – The Board adopted a final opinion and order amending the Board’s wastewater pretreatment regulations to make them “identical in substance to federal regulations.	5-0
R05-15 (cons.)		Water

R05-10 In the Matter of: Bacteria (E-coli) Water Quality Standard for Lake Michigan and the Mississippi River, Proposed Amendments to 35 Ill. Adm. Code 302 – The Board denied the Illinois Environmental Protection Agency’s (Agency) motion to suspend the rulemaking and dismissed the rulemaking proposal. The Agency was given leave to re-file an appropriate rulemaking proposal when the United States Environmental Protection Agency’s new bacteria criterion is adopted. 5-0
R, Water

R05-11 In the Matter of: Amendments to Emissions Reduction Market System, 35 Ill. Adm. Code 205 and 211 – The Board adopted a second notice opinion and order in this rulemaking to amend the Board’s air regulations. 5-0
R, Air

ADJUSTED STANDARDS

AS 05-6 In the Matter of: Petition of Schaeffer Enterprises of Wolf Lake, Inc. for an Adjusted Standard from Tire Storage Rules at 35 Ill. Adm. Code 848.202(b)(5) and 848.404 – Pending receipt of the certificate of publication, the Board held this DuPage County facility’s petition for an adjusted standard from the Board’s regulations for the management of used and waste tires. Land

ADMINISTRATIVE CITATIONS

AC 05-7 IEPA v. Edward and Betty Jo Cain and Edward Cain d/b/a Cain Roofing Company – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Fulton County facility, the Board found that respondents had violated Section 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(3) (2002)) and ordered respondents to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondents’ petition for review and the alleged violations of 415 ILCS 5/21(p) (1), (7) (2002). 5-0

AC 05-49 IEPA v. Landers’ Children Family, L.L.C. and Ray Landers – The Board granted complainant’s motion for reconsideration of the March 3, 2005 Board Order and motion for default judgment as to respondent Ray Landers. The Board dismissed the administrative citation for lack of timely service as to Landers’ Children Family, L.L.C. only. The Board found that Ray Landers violated Sections 21(p)(1), (p)(4) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(21(p)(1), (p)(4) (p)(7) (2002)), and ordered respondent to pay a civil penalty of \$4,500. 5-0

AC 05-54 IEPA v. Ray Logsdon Estate, Logsdon Sand and Gravel Company, and M.K. O’Hara Construction, Inc. – The Board accepted for hearing Logsdon Sand and Gravel Company’s petition for review of an administrative citation and granted complainant’s motion to dismiss the administrative citation as to the Ray Logsdon Estate. The Board dismissed the petition for review on behalf of M.K. O’Hara Construction, Inc. for failure to file an amended petition as instructed by the Board’s March 3, 2005 order. 5-0

AC 05-57 IEPA v. Leonard Harris – The Board found that this Boone County respondent violated Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2002)), and ordered respondent to pay a civil penalty of \$1,500. 5-0

AC 05-58 IEPA v. Knox County Landfill Committee and Greg Ingle – The Board found that these Knox County respondents violated Section 21(o)(5) of the Environmental Protection Act (415 ILCS 5/21(o)(5) (2002)), and ordered respondents to pay a civil penalty of \$500. 5-0

AC 05-60 IEPA v. Ken Edwards – The Board granted complainant’s motion to dismiss the administrative citation for lack of timely service. 5-0

AC 05-62 IEPA v. F.I.M., Inc. – The Board accepted an administrative citation against this Adams County respondent.

AC 05-63 IEPA v. John R. Malloch – The Board accepted an administrative citation against this Champaign County respondent.

AC 05-64 IEPA v. Charles Bellemey and Willie Doucher - The Board accepted an administrative citation against these Champaign County respondents.

AC 05-65 County of Montgomery v. Michael Schwab – The Board accepted an administrative citation against this Montgomery County respondent.

ADJUDICATORY CASES

Decisions

PCB 03-51 People of the State of Illinois v. Draw Drape Cleaners, Inc., an Illinois corporation, American Drapery Cleaners & Flameproofers, inc., an Illinois corporation, and Richard Zell, an Illinois resident – 5-0
A-E
In this air 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 respondents to pay a total civil penalty of \$7,500 and to cease and desist from further violations.

PCB 04-138 People of the State of Illinois v. Pinnacle Corporation d/b/ Town & Country Homes – 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 respondent to pay a total civil penalty of \$80,000 and to cease and desist from further violations.

PCB 04-178	<u>People of the State of Illinois v. H.B.M. Electrochemical Company and Ned Mandich individually and as president of H.B.M. Electrochemical Company</u> – In this air 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 respondents to pay a total civil penalty of \$15,000, and to cease and desist from further violations.	5-0 A-E
PCB 05-55 PCB 05-58 PCB 05-59 (cons.)	<u>Village of Lake Barrington, Cuba Township, Prairie Rivers Network, Sierra Club, Beth Wentzel, and Cynthia Skrukud v. IEPA and Village of Wauconda; Slocum Lake Drainage District of Lake County, Illinois v. IEPA and Village of Wauconda; Al Phillips et al. v. IEPA and Village of Wauconda, Illinois</u> – The Board affirmed the Illinois Environmental Protection Agency’s issuance of a National Pollutant Discharge Elimination System permit to the Village of Wauconda.	5-0 P-A, NPDES 3 rd party
PCB 05-60	<u>People of the State of Illinois v. Youssi Real Estate and Development, Inc.</u> – In this water enforcement action concerning a Boone 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 \$5,000, and to cease and desist from further violations.	5-0 W-E
PCB 05-64	<u>People of the State of Illinois v. Auto Recyclers – C&D Enterprises, Inc.</u> – In this land enforcement action concerning a Sangamon 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 \$5,000, and to cease and desist from further violations.	5-0 L-E

PCB 05-85	<u>Citgo Petroleum Corporation and PDV Midwest Refining, LLC. v. IEPA</u> – The Board granted these Will County petitioners a variance from the Total Dissolved Solids water quality standards of 35 Ill. Adm. Code 302.208(g) and 302.407. The variance last until December 15, 2005 and is subject to conditions	5-0 W-V
PCB 05-86	<u>People of the State of Illinois v. Fairacres Subdivision Association</u> – In this public water supply enforcement action concerning a Rock Island 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 \$750, and to cease and desist from further violations.	5-0 PWS-E
PCB 05-96	<u>People of the State of Illinois v. Village of North City</u> – In this public water supply enforcement action concerning a Franklin 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 \$500, to perform a supplemental environmental project by payment of a monetary donation of \$500 to the Benton School District Greening Program, and to cease and desist from further violations.	5-0 PWS-E
PCB 05-123	<u>People of the State of Illinois v. Cunat, Inc.</u> – In this water enforcement action concerning a McHenry 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 \$3,500, and to cease and desist from further violations.	5-0 W-E

Motions and Other Matters

PCB 97-2	<u>People of the State of Illinois v. Jersey Sanitation Corporation</u> – No action taken.	A&W-E
PCB 00-104	<u>People of the State of Illinois v. The Highlands, L.L.C., Murphy Farms, Inc. a/k/a Murphy Family Farms, and Bion Technologies, Inc.</u> – No action taken.	A-E
PCB 03-54	<u>Freedom Oil Company v. IEPA</u> – No action taken.	UST Appeal
PCB 03-56		
PCB 03-105		
PCB 03-179		
PCB 04-2 (cons.)		
PCB 04-19	<u>Paul and Donna Fredrickson v. Jeff Grelyak</u> – No action taken.	Citizens A&N-E
PCB 04-88	<u>Des Plaines River Watershed Alliance, Livable Communities Alliance, Prairie Rivers Network, and Sierra Club v. IEPA and Village of New Lenox</u> – The Board granted the respondent’s motion to file reply instanter and accepted the reply to petitioners’ response to motion for stay of petitioners’ motion for summary judgment. The Board denied the respondent’s motion for stay of petitioner’s motion for summary judgment, and directed the hearing officer to set a briefing schedule on the motion.	5-0 P-A, NPDES
PCB 04-162	<u>People of the State of Illinois v. Asbestos Control and Environmental Services</u> – No action taken.	A-E
PCB 04-215	<u>Commonwealth Edison Company v. IEPA</u>	T-S
PCB 04-216 (not cons.)	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – No action taken.	Appeal

PCB 04-225	<u>People of the State of Illinois v. Prairie Lane Development, 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 Boone County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 05-29	<u>Mather Investment Properties, L.L.C. v. Illinois State Trapshooters Association, Inc.</u> – No action taken.	Citizens L-E
PCB 05-49	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – No action taken.	
PCB 05-63	<u>People of the State of Illinois v. North Rockwell, 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 05-124	<u>Mac’s Convenience Stores L.L.C. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Sangamon County facility. The Board granted David L. Hatchett’s motion for leave to appear <i>pro hac vice</i> on behalf of petitioner.	5-0 UST Appeal
PCB 05-125	<u>Red Rooster Corporation f/k/a Clark Retail Enterprises, Inc.)</u> – The Board accepted for hearing this underground storage tank appeal involving a Peoria County facility.	5-0 UST Appeal
PCB 05-157	<u>Grand Pier Center L.L.C. and American International Specialty Lines Insurance Co. as subrogee of Grand Pier Center L.L.C. v. River East L.L.C., Chicago Dock and Canal Trust, Chicago Dock and Canal Company, and Kerr-McGee Chemical L.L.C.</u> – No action taken.	L-E
PCB 05-179	<u>Arthur Keller-Willow Hill (Livestock Waste Management Facilities) (Property Identification Number 94-15-18-300-007) v. IEPA</u> – No action taken.	Novak T-C Water

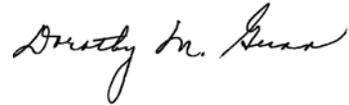
PCB 05-180	<u>People of the State of Illinois v. ACI Environmental Corporation, an Illinois corporation, and Asbestos Control, Inc., an Illinois corporation</u> – The Board accepted for hearing this air enforcement action involving a site located in DuPage County.	5-0 A-E
PCB 05-182	<u>U.S. Minerals, L.L.C. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Montgomery County facility.	5-0 P-A, Air
PCB 05-183	<u>Webb & Sons, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Coles County facility.	5-0 UST Appeal
PCB 05-184	<u>Harvey B. Whittaker v. IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies within 30 days, or this matter will be dismissed.	5-0 UST Appeal
PCB 05-185	<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 Douglas County facility.	5-0 UST Appeal 90-Day Ext.

CASES PENDING DECISION

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Novak adjourned the meeting at 11:40 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on May 5, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board