

# ILLINOIS POLLUTION CONTROL BOARD



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## MEETING MINUTES

May 19, 2005  
100 W. Randolph Street  
Conference Room 9-040  
11:00 A.M.

### ANNOUNCEMENTS

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

### ROLL CALL

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The Clerk of the Board called the roll. All Board Members answered present.

### APPROVAL OF MINUTES

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Minutes of the May 19, 2005 meeting were approved by a vote of 5-0,

### RULEMAKINGS

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<b>R04-21</b>	<u>In the Matter of: Revisions to Radium Water Quality Standards: Proposed New 35 Ill. Adm. Code 302.307 and Amendments to 35 Ill. Adm. Code 302.207 and 302.525</u> – No action taken.	R, Water
<b>R04-24</b>	<u>In the Matter of: Amendments to the Board’s Procedural Rules to Accommodate New Statutory Provisions: 35 Ill. Adm. Code 101-130</u> – The Board adopted a final opinion and order in this rulemaking amending the Board’s procedural regulations.	5-0 R, Proc. Rules
<b>R05-16</b>	<u>In the Matter of: Definition of VOM Update, USEPA Amendments (July 1, 2004 through December 31, 2004)</u> – The Board adopted a final opinion and order amending the Board’s air pollution control regulations to make them “identical in substance” to federal regulations adopted from July 1, 2004 through December 31, 2004.	5-0 R, Air

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**ADJUSTED STANDARDS**

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<b>AS 05-6</b>	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 – The Board dismissed this petition for an adjusted standard due to deficiencies in the petition and petitioner’s failure to publish notice of the filing of the petition by advertisement in a newspaper of general circulation in the area likely to be affected, as required by Section 28.1 of the Environmental Protection Act (415 ILCS 5/28.1(d)(1) (2002)).	5-0 Land
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## **ADMINISTRATIVE CITATIONS**

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<b>AC 04-82</b>	<u>IEPA v. John Brown d/b/a John Brown Painting</u> – The Board entered an interim opinion and order finding respondent violated Section 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2002)) and assessing a penalty of \$3,000. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent. The Board will then issue a final order assessing hearing costs.	5-0
<b>AC 05-51</b>	<u>County of Sangamon v. Patrick O’Keefe</u> – No action taken.	
<b>AC 05-62</b>	<u>IEPA v. F.I.M., Inc.</u> – The Board found that this Adams 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
<b>AC 05-63</b>	<u>IEPA v. John R. Malloch</u> – The Board accepted for hearing this petition for review of an administrative citation against this Champaign County respondent.	5-0
<b>AC 05-68</b>	<u>County of Jackson v. Elwood Glasper and Tony Glasper</u> – The Board granted complainant’s motion to voluntarily dismiss this administrative citation.	5-0
<b>AC 05-69</b>	<u>IEPA v. Waste Management of Illinois, Inc. and Michael Wiersema</u> – The Board accepted for hearing this petition for review of an administrative citation against these DeKalb County respondents.	

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## ADJUDICATORY CASES

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### Decisions

<b>PCB 05-109</b>	<u>Paul Johnson, Inc. v. IEPA and City of Waterman</u> – The Board granted this DeKalb County petitioner a water well setback exception, with conditions, from 415 ILCS 5/14.2 (2002) of the Environmental Protection Act to allow petitioner to perform in-situ bioremediation via the direct push Geoprobe method.	5-0 WWSE
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### Motions and Other Matters

<b>PCB 97-2</b>	<u>People of the State of Illinois v. Jersey Sanitation Corporation</u> – No action taken.	A&W-E
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<b>PCB 97-179</b>	<u>People of the State of Illinois v. Midwest Grain Products of Illinois, Inc.</u> – The Board granted Patrick M. Flachs’ motion for leave to appear <i>pro hac vice</i> on behalf of respondent.	5-0 A-E
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<b>PCB 00-117</b>	<u>Ophelia Niemann f/d/b/a Barney’s Garage, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Montgomery County facility.	5-0 UST Appeal
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<b>PCB 01-130</b>	<u>JR &amp; Sons, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeals involving a Champaign County facility.	5-0 UST Appeal
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<b>PCB 02-105</b>	<u>Board of Trustees of Southern Illinois University Governing Southern Illinois University, Edwardsville v. IEPA</u> – No action taken.	P-A, NPDES
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<b>PCB 02-205</b>	<u>Home Oil; Company v. IEPA</u> – The Board granted this St. Clair County facility’s motion for voluntary dismissal of this underground storage tank appeal, in PCB 02-205 only. The appeal docketed as PCB 02-206 remains open.	5-0
<b>PCB 02-206 (cons.)</b>		UST Appeal
<b>PCB 03-54</b>	<u>Freedom Oil Company v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 03-56</b>		
<b>PCB 03-105</b>		
<b>PCB 03-179</b>		
<b>PCB 04-2 (cons.)</b>		
<b>PCB 03-214</b>	<u>Illinois Ayers Oil Company v. IEPA</u> – No action taken.	UST Appeal
<b>PCB 05-48 (not cons.)</b>		
<b>PCB 04-85</b>	<u>Robert and Tony Thompson v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Alexander County facility.	5-0 UST Appeal
<b>PCB 04-88</b>	<u>Des Plaines River Watershed Alliance, Livable Communities Alliance, Prairie Rivers Network, and Sierra Club v. IEPA and Village of New Lenox</u> – No action taken.	P-A, NPDES
<b>PCB 04-162</b>	<u>People of the State of Illinois v. Asbestos Control and Environmental Services</u> – No action taken.	A-E
<b>PCB 04-215</b>	<u>Commonwealth Edison Company v. IEPA</u>	T-S
<b>PCB 04-216 (not cons.)</b>	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – No action taken.	Appeal

<b>PCB 05-29</b>	<u>Mather Investment Properties, L.L.C. v. Illinois State Trapshooters Association, Inc.</u> – No action taken.	Citizens L-E
<b>PCB 05-49</b>	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – No action taken.	A&L-E
<b>PCB 05-66</b>	<u>People of the State of Illinois v. Petco Petroleum Corporation</u> – The Board granted complainant’s motion for leave file an amended complaint and accepted it for hearing.	5-0 W-E
<b>PCB 05-126</b>	<u>Red Rooster Corporation f/k/a Clark Retail Enterprises, Inc. (Clark Oil #2086) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Peoria County facility.	5-0 UST Appeal
<b>PCB 05-127</b>	<u>Richard Karlock v. IEPA</u> – The Board referred respondent’s motion for extension of time to respond to the hearing officer for disposition. No action was taken on petitioner’s motion for summary judgment.	UST Appeal
<b>PCB 05-147</b>	<u>Vision Properties Blue Island, L.L.C. 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 P-A, RCRA
<b>PCB 05-157</b>	<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> – The Board found that the alleged violations were neither duplicative nor frivolous, denied respondents’ motion to dismiss, struck complainant’s request for attorney fees, and accepted for hearing this matter involving a Cook County site.	5-0 Citizens L-E

<b>PCB 05-193</b>	<u>Vernon and Elaine Zohfeld v. Bob Drake, Wabash Valley Service Company, Michael J. Pfister, Noah D. Horton, and Steve Kinder</u> – The Board held for a later duplicative/frivolous determination this citizens’ air enforcement action involving a Hamilton County site.	Citizens A-E
<b>PCB 05-194</b>	<u>Rosignol 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 Wabash County facility.	5-0 UST Appeal 90-Day Ext.
<b>PCB 05-195</b>	<u>Beckman 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 Marion County facility.	5-0 UST Appeal 90-Day Ext.
<b>PCB 05-196</b>	<u>Kapp, Inc. v. Hartley Carlton individually and d/b/a One Hour Cleaners</u> – The Board held for a later duplicative/frivolous determination this citizen land enforcement action involving a Macon County facility.	Citizens L-E

**CASES PENDING DECISION**

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AC 04-63      County of Jackson v. Egon Kamarasy      Moore  
AC 04-64  
(cons.)

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**OTHER ITEMS**

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**ADJOURNMENT**

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Moved and seconded, by a vote of 5-0, Chairman Novak adjourned the meeting at 11:30 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on June 2, 2005, by a vote of.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board