

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



SEPTEMBER 2, 2004 CHICAGO OFFICE
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 Novak 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 August 19, 2004 meeting were approved by a vote of 4-0. Member Melas abstained.

ADJUSTED STANDARDS

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 – No action taken.</u>	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 620.410(a) – No action taken. Water

ADMINISTRATIVE CITATIONS

AC 04-27 IEPA v. Douglas S. Carrico, d/b/a Carrico’s Auto Heap – The Board entered an interim opinion and order finding respondent violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)) and assessing a penalty of \$1,500. 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. 5-0

AC 04-43 County of Jackson v. Frank Stonemark– In response to a joint stipulation and settlement agreement in this administrative citation action involving a Jackson County facility, the Board found 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. The Board also granted the parties’ joint motion to dismiss respondent’s petition for review and the alleged violation of 415 ILCS 5/21(p)(7) (2002). 5-0

AC 04-63 County of Jackson v. Egon Kamarasy – The Board granted complainant’s motion to consolidate AC 04-63 and AC 04-64. 5-0
AC 04-64

AC 04-80 IEPA v. Joseph Luparell and Troy Curley – The Board accepted complainant’s response to the July 8, 2004 Board order regarding service on respondent Troy Curley. The Board found that complainant properly served respondent and accepted for hearing Troy Curley’s petition for review of an administrative citation against these Sangamon County respondents. 5-0

AC 05-3 IEPA v. City of Freeport and Ryan Wilson – The Board found that these Stephenson County respondents violated Section 21(o)(11) of the Environmental Protection Act (415 ILCS 5/21(o)(11) (2002)), and ordered respondent to pay a civil penalty of \$500. 5-0

AC 05-5 IEPA v. Robert and Phylis Ulrich and Bob Ulrich Pallet, Inc. – The 5-0

Board accepted for hearing this petition for review of an administrative citation against these Adams County respondents.

AC 05-6	<u>IEPA v. Knox County Landfill Committee and Greg Ingle</u> – The Board found that these Knox County respondents violated Sections 21(o)(1), (o)(2), (o)(5), and (o)(12) of the Act (415 ILCS 5/21(o)(1), (o)(2), (o)(5), and (o)(12) (2002)), and ordered respondents to pay a civil penalty of \$2,000.	5-0
AC 05-8	<u>IEPA v. Ted Harrison and Gerald S. Gill</u> – The Board accepted for hearing respondents Harrison’s and Gill’s petitions for review of an administrative citation against these Adams County respondents.	5-0
AC 05-9	<u>IEPA v. Bill Collins</u> – The Board found that this Franklin 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 05-10	<u>IEPA v. Lawrence P. and Jacqueline L. Koch</u> – The Board found that these Bond County respondents violated Sections 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2002)), and ordered respondents to pay a civil penalty of \$3,000.	5-0
AC 05-11	<u>IEPA v. Environmental Reclamation Company and Gene Stacey</u> – The Board found that these Bond County respondents violated Sections 21(o)(5) and (o)(12) of the Act (415 ILCS 5/21(o)(5), (o)(12) (2002)), and ordered respondents to pay a civil penalty of \$1,000.	5-0
AC 05-12	<u>County of Sangamon v. James Withers</u> – The Board granted complainant’s motion to dismiss this administrative citation for lack of service on respondent.	5-0
AC 05-14	<u>City of Chicago Department of Environment v. Bovis Lend Lease, Inc.</u> – The Board accepted an administrative citation against this Cook County respondent.	
AC 05-15	<u>IEPA v. C. John Blickham</u> – The Board accepted an administrative citation against this Adams County respondent.	
AC 05-16	<u>IEPA v. Richard Groff</u> – The Board accepted an administrative	

citation against this Fulton County respondent.

AC 05-17 IEPA v. Roger and Joan Kay Miller – The Board accepted an administrative citation against these Champaign County respondents.

AC 05-18 IEPA v. William Shrum – The Board accepted an administrative citation against this Perry County respondent.

AC 05-19 IEPA v. David and Shelby Hill and N. E. Finch Company – The Board accepted an administrative citation against these Fulton County respondents.

AC 05-20 IEPA v. John Groff and Robert Groff – The Board accepted an administrative citation against these Marion County respondents.

AC 05-21 IEPA v. Willis E. Farley, Jr. – The Board accepted an administrative citation against this Mason County respondent.

ADJUDICATORY CASES

Decisions

PCB 96-98 People of the State of Illinois v. Skokie Valley Asphalt, Company, Inc., Edwin L. Frederick, Jr. individually and as owner and President of Skokie Valley Asphalt Company, Inc., and Richard J. Frederick individually and as owner and Vice-President of Skokie Valley Asphalt Company, Inc. – The Board found that respondents violated the following provisions of the Environmental Protection Act (Act) and the Board’s regulations: Sections 12 (a) and (f) of the Act (415 ILCS 5/12(a) and (f) (2002)), and 35 Ill. Adm. Code 302.203, 304.105, 304.106, 305.102(b), 309.102(a), and 309.104(a) at respondent’s facility located Grayslake Village, Lake County. The Board ordered the respondents to pay a total civil penalty of \$153,000.

PCB 01-1 People of the State of Illinois v. Metals Technology Corporation – In this air enforcement action concerning a DuPage 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 \$50,000 and to cease and desist from further violations. 5-0
A-E

PCB 04-67 People of the State of Illinois v. Royal Trucking Company– In this water enforcement action concerning a location in Cook County, 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 02-164 Barbara and Ronald Stuart v. Franklin Fisher – No action taken. Citizens
N-E

Motions and Other Matters

PCB 97-119 People of the State of Illinois v. G & M Total, Inc. and George Papas, individually and as President of G & M Total, Inc. – No action taken. L-E

PCB 99-187 Gina Pattermann v. Boughton Trucking and Materials, Inc. – The Board denied respondent’s motion for reconsideration. 5-0
A&N-E

PCB 01-7 People of the State of Illinois v. QC Finishers, Inc. – 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 01-102	<u>Cassen and Sons, Inc. v. IEPA</u> – No action taken.	UST Appeal
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> – No action taken.	L, W-E
PCB 03-125	<u>City of Kankakee v. County of Kankakee, County Board of Kankakee, and Waste Management of Illinois, Inc.; Merlin Karlock v. County Board 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; Keith Runyon v. County of Kankakee, County Board of Kankakee and Waste Management of Illinois, Inc.; Waste Management of Illinois, Inc. v. County of Kankakee</u> – The Board declined to take action on the pending motions due to lack of jurisdiction to modify the Board’s judgment or to rule on matters of substance, which are the subject of appeal.	5-0
PCB 03-133		P-C-F-S-R
PCB 03-134		
PCB 03-135		
PCB 03-144 (Cons.)		
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 L. Tripp</u> – Complainants' motion to file additional appearance was referred to the hearing officer for disposition.	Citizens Land, Water-E
PCB 04-31	<u>Broadus Oil v. IEPA</u> – The Board granted petitioner’s motion for leave to clarify petition for review. The board directed the Clerk of the Board to open a new docket (PCB 05-43) for review of the September 8, 2003 decision and instructed petitioner to submit a filing fee for the new docket by October 4, 2004. Finally, the Board on its on motion consolidated PCB 04-31 and PCB 05-43.	5-0 UST Appeal
PCB 04-48	<u>Village of Robbins and Allied Waste Transportation, Inc. v. IEPA</u> – No action taken.	P-A, Land

PCB 04-106	<u>People of the State of Illinois v. Thomas Gray an individual, Steve Whyte an individual, Gladys Whyte an individual, Leona Childress an individual, and William McCoy an individual</u> – No action taken.	L-E
PCB 04-183	<u>Johnson Oil Company v. IEPA</u> – The Board accepted petitioner’s amended petition for review for hearing and granted the motion for admission of John D. Moriarity to appear <i>Pro Hac Vice</i> .	5-0 UST Appeal
PCB 04-185	<u>Midwest Generation EME, Inc. v. IEPA</u> – No action taken.	T-S Appeal
PCB 04-187	<u>Sutter Sanitation, Inc. and Lavonne Haker v. IEPA</u> – No action taken.	P-A, Land
PCB 04-190	<u>Johnson Oil Company v. IEPA</u> – The Board accepted petitioner’s amended petition for review for hearing and granted the motion for admission of John D. Moriarity to appear <i>Pro Hac Vice</i> .	5-0 UST Appeal
PCB 04-202	<u>Auburn Realty 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 Christian County facility.	5-0 UST Appeal
PCB 04-203	<u>2 F, 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 Williamson County facility.	5-0 UST Appeal
PCB 04-208	<u>Yesley Service 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 Randolph County facility.	5-0 UST Appeal

PCB 04-209	<u>DiMucci Development Corporation v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility.	5-0 UST Appeal
PCB 04-210	<u>Aylsworth 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 White County facility.	5-0 UST Appeal
PCB 04-215 PCB 04-216	<u>Commonwealth Edison Company v. IEPA</u> – No action taken.	T-S Appeal
PCB 05-1	<u>Batavia, Illinois Residents Opposed to Siting of Waste Transfer Station v. Application of Onyx Waste Services Midwest, Inc. for Local Siting Approval for a Solid Waste Transfer Station and City of Batavia, Illinois</u> – No action taken.	P-C-F-S-R 3d Party
PCB 05-2	<u>Holland Energy, L.L.C.-Beecher City (Property Identification Numbers 0524-01-00-100-004, 0825-16-00-100-004, 0825-16-00-300-002, 0825-16-00-300-003, 0825-16-00-200-002) v. IEPA</u> – Because the Board did not receive any petition for review of the Agency’s recommendation to deny certification, consistent with the Agency’s recommendation, the Board declined to certify that Holland Energy’s facilities are pollution control facilities and dismissed this matter.	5-0 T-C
PCB 05-3	<u>Holland Energy, L.L.C.-Beecher City (Property Identification Numbers 0524-01-00-100-004, 0825-16-00-100-004, 0825-16-00-300-002, 0825-16-00-300-003, 0825-16-00-200-002) v. IEPA</u> – Because the Board did not receive any petition for review of the Agency’s recommendation to deny certification, consistent with the Agency’s recommendation, the Board declined to certify that Holland Energy’s facilities are pollution control facilities and dismissed this matter.	5-0 T-C

PCB 05-4 Holland Energy, L.L.C.-Beecher City (Property Identification Numbers 0524-01-00-100-004, 0825-16-00-100-004, 0825-16-00-300-002, 0825-16-00-300-003, 0825-16-00-200-002) v. IEPA –
Because the Board did not receive any petition for review of the Agency’s recommendation to deny certification, consistent with the Agency’s recommendation, the Board declined to certify that Holland Energy’s facilities are pollution control facilities and dismissed this matter.

PCB 05-5 Holland Energy, L.L.C.-Beecher City (Property Identification Numbers 0524-01-00-100-004, 0825-16-00-100-004, 0825-16-00-300-002, 0825-16-00-300-003, 0825-16-00-200-002) v. IEPA –
Because the Board did not receive any petition for review of the Agency’s recommendation to deny certification, consistent with the Agency’s recommendation, the Board declined to certify that Holland Energy’s facilities are pollution control facilities and dismissed this matter.

PCB 05-6 Holland Energy, L.L.C.-Beecher City (Property Identification Numbers 0524-01-00-100-004, 0825-16-00-100-004, 0825-16-00-300-002, 0825-16-00-300-003, 0825-16-00-200-002) v. IEPA –
Because the Board did not receive any petition for review of the Agency’s recommendation to deny certification, consistent with the Agency’s recommendation, the Board declined to certify that Holland Energy’s facilities are pollution control facilities and dismissed this matter.

PCB 05-11 UAP Richter – Dixon (Property Identification Number 02-15-07-100-020) v. IEPA – Because the Board did not receive any petition for review of the Agency’s recommendation to deny certification, consistent with the Agency’s recommendation, the Board declined to certify that UAP Richter’s facilities are pollution control facilities and dismissed this matter.

PCB 05-27	<u>Heritage FS, Inc. (Property Identification Numbers 06-10-06-400-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that certain agrichemical containment facilities of Heritage FS, Inc. located in Shelby County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)). No action was taken on the recommendation to deny certification for the certain portion of the building over the minibulk/package agrichemical secondary containment structure at the site.	5-0 T-C
PCB 05-29	<u>Mather Investment Properties, L.L.C. v. Illinois State Trapshooters Association, Inc.</u> – The Board held for a later duplicative/frivolous determination this citizen’s enforcement action involving a Sangamon County facility.	Citizens Land-E
PCB 05-30	<u>Village of Frankfort v. IEPA</u> – The Board accepted for hearing this permit appeal involving a facility located in Cook and Will Counties.	5-0 P-A, Water
PCB 05-31	<u>Hall’s Automotive (SICR) 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 Hardin County facility	5-0 P-A, NPDES
PCB 05-32	<u>People of the State of Illinois, by Lisa Madigan, Attorney General for the State of Illinois v. GTC, International, an Illinois corporation</u> – The Board accepted for hearing this air enforcement action involving a site located in Cook County.	5-0 A-E
PCB 05-33	<u>Vollbracht Farms, Inc. (Property ID # 14-0-0282-000-00) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Vollbracht Farms, Inc. located in Adams County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C

PCB 05-34	<u>Moss Family Farms, Inc. (Property ID #34-013-08) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Moss Family Farms, Inc. located in Pike County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C
PCB 05-35	<u>Kibler Development Corporation and Marion Ridge Landfill, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a facility located in Williamson County.	5-0 P-A, Land
PCB 05-36	<u>Bunker Hill Amoco v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Macoupin County facility.	5-0 UST Appeal
PCB 05-37	<u>Mussman's Back Acres, Inc. (Property ID # 01-04-14-200-008) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Mussman's Back Acres, Inc. located in Kankakee County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C
PCB 05-38	<u>Lone Willow USA, Inc. (Property ID # 09-12-100-007 and 09-12-200-011) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Lone Willow USA, Inc. located in Woodford County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C

PCB 05-39 Lincoln Land FS, Inc. (Property ID # 09-21-404-007) v. IEPA – 5-0
Upon receipt of the Illinois Environmental Protection Agency’s T-C
recommendation, the Board found and certified that specified
facilities of Lincoln Land FS, Inc. located in Morgan County are
pollution control facilities for the purpose of preferential tax
treatment under the Property Tax Code (35 ILCS 200/11-10
(2002)).

PCB 05-40 Lincoln Land FS, Inc. (Property ID #06-29-100-023-0080 and 06- 5-0
29-100-019-0080) v. IEPA – Upon receipt of the Illinois T-C
Environmental Protection Agency’s recommendation, the Board
found and certified that specified facilities of Lincoln Land FS, Inc.
located in Scott County are pollution control facilities for the
purpose of preferential tax treatment under the Property Tax Code
(35 ILCS 200/11-10 (2002)).

PCB 05-41 Lazy B Farm (Property ID #05-000-289-00) v. IEPA – Upon 5-0
receipt of the Illinois Environmental Protection Agency’s T-C
recommendation, the Board found and certified that specified
facilities of Lazy B Farm located in Lawrence County are pollution
control facilities for the purpose of preferential tax treatment under
the Property Tax Code (35 ILCS 200/11-10 (2002)).

PCB 05-42 Chris and Greg Niebrugge (Property ID #07-1-23-000-011-000) v. 5-0
IEPA – Upon receipt of the Illinois Environmental Protection T-C
Agency’s recommendation, the Board found and certified that
specified facilities of Chris and Greg Niebrugge located in
Crawford County are pollution control facilities for the purpose of
preferential tax treatment under the Property Tax Code (35 ILCS
200/11-10 (2002)).

CASES PENDING DECISION

PCB 91-17 Noveon, Inc. f/k/a BF Goodrich Corporation (Henry Facility) v. Citizens
IEPA – Final Order, Opinion and Order (due 9/16) N-E

OTHER ITEMS

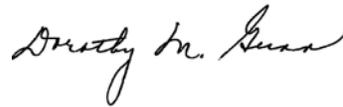
The Board granted the Chairman's Motion to Keep Confidential Minutes for all Closed Deliberative Sessions Prior to July 1, 2004 (see Open Meetings Act (5 ILCS 120/2.6(d))).

The Board granted the Chairman's Motion to Convene the September 23, 2004 Closed Deliberative Session at 3:00 p.m. instead of 10:00 a.m.

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Novak adjourned 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 September 16, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board