

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



AUGUST 18, 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. All Board Members answered present except for Member Melas who was absent.

APPROVAL OF MINUTES

Minutes of the August 4, 2005 meeting were approved by a vote of 4-0.

RULEMAKINGS

R06-8	<u>In the Matter of: Proposed Site-Specific Perlite Waste Disposal Regulation Applicable to Silbrico Corporation (35 Ill. Adm. Code Part 810 – No action taken.</u>	R, Land
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ADJUSTED STANDARDS

AS 05-7	<u>In the Matter of: Petition of Waste Management of Illinois, Inc. for an Adjusted Standard from Subpart D of 35 Ill. Adm. Code 721 and for RCRA Waste Delisting Under 35 Ill. Adm. Code 720.122 for Treatment Residual of CID Recycling and Disposal Facility Biological Liquid Treatment Center – No action taken.</u>	Land
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ADMINISTRATIVE CITATIONS

AC 04-6	<u>IEPA v. Mary Lou and H. Frank Record</u> – 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)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3) (2004)) 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 violation of 415 ILCS 5/21(p)(7) (2004).	4-0
AC 04-39	<u>County of Jackson v. Edward Tow</u> – The Board granted complainant's motion to withdraw and dismiss this administrative citation action involving a Jackson County facility.	4-0
AC 04-63 AC 04-64 (cons.)	<u>County of Jackson v. Egon Kamarasy</u> – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Board in the amount of \$378.60 and a civil penalty of \$7,5000. This order follows the Board's interim order of June 16, 2005, which found that this respondent had violated 21(p)(1), (p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2004)) at his Jackson County facilities.	4-0
AC 05-76	<u>County of Jackson v. Gary Clover</u> – The Board granted complainant's motion to withdraw and dismiss this administrative citation action involving a Jackson County facility.	4-0
AC 05-77	<u>IEPA v. Hunter Garrard</u> – The Board found that this Crawford County respondent violated Section 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2004)), and ordered respondent to pay a civil penalty of \$3,000.	4-0

AC 05-80 County of Kankakee v. South Holland Trust #10897 & John & Ella Hall – The Board accepted for hearing John Hall’s petition for review of an administrative citation against these Kankakee County respondents. The Board found that South Holland Trust & Savings, which did not file a petition for review, violated Section 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2004)), but withholds issuing its final order on South Holland Trust & Savings until the Board makes its final decision regarding the Halls. 4-0

AC 06-4 County of Perry v. Charles Tilley – The Board accepted an administrative citation against this Perry County respondent.

AC 06-5 County of Perry v. Debbie Melvin – The Board accepted an administrative citation against this Perry County respondent.

ADJUDICATORY CASES

Decisions

PCB 05-148 People of the State of Illinois v. Concrete Specialties Company – 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) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$32,500, and to cease and desist from further violations. 4-0
A-E

Motions and Other Matters

PCB 96-98 People of the State of Illinois v. Skokie Valley Asphalt, Inc., an Illinois corporation, Edwin L. Frederick, Jr., individually and as owner and President of Skokie Valley Asphalt Co., Inc., and Richard J. Frederick, individually and as owner and Vice President of Skokie Valley Asphalt Co., Inc. – No action taken. W-E

PCB 00-104	<u>People of the State of Illinois v. The Highlands, L.L.C. and Murphy Farms, Inc.</u> – No action taken.	A-E
PCB 02-77	<u>People of the State of Illinois v. Millenium Recycling & Solid Waste Consultants, Inc, Sheri Clementi, individually and as President of Millenium Recycling & Solid Waste Consultants, Inc., and Michael Lorence</u> – No action taken.	L-E
PCB 03-54	<u>Freedom Oil Company v. IEPA</u> – No action taken.	UST
PCB 03-56		Appeal
PCB 03-105		
PCB 03-179		
PCB 04-2		
(cons.)		
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 03-192	<u>Owens Oil Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of these consolidated underground storage tank appeals involving a Greene County facility.	4-0
PCB 03-194		UST
PCB 03-195		Appeal
PCB 03-196		
PCB 03-197		
PCB 03-203		
(cons.)		
PCB 03-193	<u>Jim’s Shell & Marine v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Macoupin County facility.	4-0
		UST
		Appeal
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> – No action taken.	4-0
		P-A,
		NPDES
PCB 04-181	<u>Keller Oil Company/Edgewood v. IEPA</u> – The Board granted	4-0

petitioner's motion for voluntary dismissal of this underground storage tank appeal involving an Effingham County facility. UST Appeal

PCB 04-209 DiMucci Development Corporation v. IEPA – The Board granted Jeep & Blazer, LLC's motion to withdraw as legal counsel for petitioner. 4-0 UST Appeal

PCB 04-215 Commonwealth Edison Company v. IEPA - The Board denied Sierra Club's motion to intervene in this trade secret appeal. In accordance with the Board's procedural rules (35 Ill. Adm. Code 101.110, 101.628), however, Sierra Club may participate by making oral or written statements at hearing and by filing *amicus curiae* briefs or public comments. 4-0 T-S Appeal

PCB 04-216 Midwest Generation EME, L.L.C. v. IEPA – The Board denied Sierra Club's motion to intervene in this trade secret appeal. In accordance with the Board's procedural rules (35 Ill. Adm. Code 101.110, 101.628), however, Sierra Club may participate by making oral or written statements at hearing and by filing *amicus curiae* briefs or public comments. 4-0 T-S Appeal

PCB 05-49 Morton F. Dorothy v. Flex-N-Gate Corporation – No action taken. A&L-E

PCB 05-108 William Breuer v. IEPA – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Washington County facility. 4-0 UST Appeal

PCB 05-157 Grand Pier Center L.L.C. 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. – The Board granted J.T. Smith II and Thomas E. Hogan motion for leave to appear *pro hac vice* on behalf of respondent. The Board reserved ruling on all other pending issues. 4-0 Citizens L-E

PCB 05-193	<u>Vernon and Elaine Zohfeld v. Robert Drake, Wabash Valley Service Company, Michael J. Pfister, Noah D. Horton and Steve Kinder</u> – No action taken.	Citizens A-E
PCB 05-194	<u>Rosingol 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 Wabash County facility.	4-0 UST Appeal
PCB 05-195	<u>Beckman Service 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 Marion County facility.	4-0 UST Appeal
PCB 05-212	<u>John & Linda Maracic v. TNT Logistics</u> – No action taken.	Citizens N-E
PCB 05-213	<u>Vincent & Jennifer Neri v. TNT Logistics</u> – No action taken.	Citizens N-E
PCB 05-216	<u>Wayne Haser v. TNT Logistics</u> – No action taken.	Citizens N-E
PCB 05-217	<u>Ken Blouin v. TNT Logistics</u> – No action taken.	Citizens N-E
PCB 05-220	<u>Kenneth E. Medema, Jr. v. TNT Logistics</u> – No action taken.	Citizens N-E
PCB 06-1	<u>Robert F. Kasella, Jr. v. Kellie R. Kasella v. TNT Logistics</u> – No action taken.	Citizens N-E

PCB 06-7	<u>Lawrence Keith Padgett and Charlotte Ann Padgett v. Attorney's Title Guaranty Fund, Inc.</u> – The Board found that the alleged violations were neither duplicative nor frivolous and accepted for hearing this matter involving a Champaign County site.	4-0 Citizens N-E
PCB 06-11	<u>Silbrico Corporation v. IEPA</u> – No action taken.	L-V
PCB 06-16	<u>People of the State of Illinois v. OGOCO, Inc.</u> – The Board accepted for hearing this water enforcement action involving a site located in Effingham County.	4-0 W-E
PCB 06-17	<u>Morgan Southern 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 Cook County facility.	4-0 UST Appeal 90-Day Ext.
PCB 06-18	<u>Gold Start FS, Inc. (Lyndon Facility) (Property ID No. 15-15-302-006) v. IEPA.</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that certain agrichemical containment facilities of Gold Start FS, Inc. located in Whiteside 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 portion of the building over the endloader fertilizer transfer area at the site.	4-0 T-C
PCB 06-19	<u>Pitchco, Inc. (Newton Facility) (Property ID No. 35-02-29-300-006) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency's recommendation, the Board found and certified that specified facilities of Pitchco, Inc. located in Jasper County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C

PCB 06-20	<u>Pitchco, Inc. (Montrose Facility) (Property ID No. 35-02-18-300-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Pitchco, Inc. located in Jasper County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C
PCB 06-21	<u>Gold Star FS, Inc. (Erie Facility) (Property ID No. 20-05-152-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that certain agrichemical containment facilities of Gold Star FS, Inc. located in Whiteside 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 portion of the building over the endloader fertilizer transfer area at the site.	4-0 T-C
PCB 06-22	<u>Walters' Ag Service, Inc. - Farmington (Property ID No. 05-04-03-400-009) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Walters' Ag Service, Inc. located in Fulton County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).	4-0 T-C
PCB 06-23	<u>Okawville Farmers Elevator Co. (Property ID No. 12-06-20-478-013) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that certain agrichemical containment facilities of Okawville Farmers Elevator Co. located in Washington 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 portion of the building over the endloader fertilizer transfer area at the site.	4-0 T-C

PCB 06-24 Evergreen Lane Farm, Inc. - Freeport (Property ID No. 12-08-28-100-004) v. IEPA – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Evergreen Lane Farm, Inc. located in Stephenson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2004)).

4-0
T-C

PCB 06-25 William Breuer v. IEPA – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility.

4-0
UST
Appeal

CASES PENDING DECISION

R04-26 In the Matter of: Interim Phosphorus Effluent Standard, Proposed 35 Ill. Adm. Code 304.123(g-k) – Proposed Rule, Second Notice, Opinion and Order

R, Water

AS 05-5 In the Matter of: Petition of Ford Motor Company for an Adjusted Standard from 35 Ill. Adm. Code 218.586 – Final Order, Opinion and Order

Air

OTHER ITEMS

The Board granted Chairman’s motion to change August 25, 2005 Closed Deliberative Session starting time from 10:00 a.m. to 9:00 a.m.

ADJOURNMENT

Moved and seconded, by a vote of 4-0, Chairman Novak adjourned the meeting at 11:28 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on September 1, 2005, by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board