

# DRAFT ILLINOIS POLLUTION CONTROL BOARD

## MEETING MINUTES



**AUGUST 22, 2002 CHICAGO OFFICE**  
**100 West Randolph Street**  
**Conference Room 9-040**  
**11:00 A.M.**

### **ANNOUNCEMENTS**

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After calling the meeting to order, Chairman Manning welcomed members of the public and staff to the meeting. Chairman Manning's motion to issue a proclamation to honor retiring Assistant Clerk of the Board Adaleen Hogan was adopted by a vote of 7-0. Chairman Manning presented Ms. Hogan with the proclamation and expressed appreciation for her nineteen years of outstanding service. The Chairman announced that a reception for Ms. Hogan and Board Member Melas' birthday would be held following the meeting.

### **ROLL CALL**

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The Assistant Clerk of the Board called the roll. All Board Members were present.

### **APPROVAL OF MINUTES**

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Minutes of the August 8, 2002 meeting were approved by a vote of 7-0.

### **RULEMAKINGS**

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<b>R03-9</b>	<u>In the Matter of: Noise Rule Update: Amendments to 35 Ill. Adm. Code 901</u> – The Board reserved this docket for a future rulemaking to amend the Board's noise pollution control regulations.	R, Noise
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### **ADMINISTRATIVE CITATIONS**

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<b>AC 02-43</b>	<u>IEPA v. James Potter</u> - No action taken.
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AC 02-58     IEPA v. RCS, Inc. and Robert Fosnock - No action taken.

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AC 02-60     IEPA v. Little Dozing Service, Inc. - In response to a joint stipulation and settlement agreement in this administrative citation action involving an Edgar County facility, the Board found respondent violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002) and ordered respondent to pay a civil penalty of \$3,000. The Board also dismissed the alleged violation of Section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002) and the petition for review. 7-0

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AC 03-2     IEPA v. Ed Heitz - No action taken.

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AC 03-6     IEPA v. Edward Sapp – The Board accepted an administrative citation against this Logan County respondent.

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AC 03-7     IEPA v. Herb Flannel and Wallace Excavating Company – The Board accepted an administrative citation against these Moultrie County respondents.

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AC 03-8     EPA v. Denny and Vicki Richey – The Board accepted an administrative citation against these Clark County respondents.

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## **ADJUDICATORY CASES**

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### Decisions

PCB 96-256    People of the State of Illinois v. Crier Development Company, and Bradley S. Cowell – The Board granted complainant’s motion to withdraw its request for attorney fees. Having previously found that respondents violated Section 12(b) of the Act and 35 Ill. Adm. Code 309.202(a) (415 ILCS 5/12(b) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002), the Board ordered the respondents to pay a total civil penalty of \$25,000 and to cease and desist from further violation of the Act. 6-1  
Marovitz  
dissented  
W-E

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**PCB 97-20** People of the State of Illinois v. Bentronics Corporation – No action taken. W-E

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**Motions and Other Matters**

*Additional motions on the following cases filed prior to this meeting may be included here.*

**PCB 96-143** People of the State of Illinois v. Michel Grain Company, Inc. d/b/a Michel Fertilizer, Carlyle Michel, and Ronnie Todd – The Board denied respondent Todd’s motion to be dismissed from this enforcement action. Additionally, the Board ordered complainant to amend its complaint within 30 days to reflect the notice to respondents required under 35 Ill. Adm. Code 103.204(f). The Board granted complainant leave to include in the amended complaint any new allegations. 7-0  
W-E

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**PCB 97-66** People of the State of Illinois v. D’Angelo Enterprises, Inc. – No action taken. RCRA-E

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**PCB 97-113** People of the State of Illinois v. Homin Lee d/b/a Meisel Plating – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this Resource Conservation and Recovery Act enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice. 7-0  
RCRA-E

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**PCB 98-80** People of the State of Illinois v. Craig Linton and Randy Rowe – No action taken. L-E  
Tires

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**PCB 99-134** People of the State of Illinois v. Peabody Coal Company – The Board granted complainant’s motion for leave to file its second amended complaint, but also directed complainant to file a third amended complaint, eliminating references to Section 302.208 of the Board’s regulations. 7-0  
W-E

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<b>PCB 00-104</b>	<u>People of the State of Illinois v. The Highlands, LLC, Murphy Farms, Inc. (a division of Murphy Brown, LLC and Smithfield Foods, Inc.)</u> - The Board ordered complainant to provide proof of notice to respondents required under 35 Ill. Adm. Code 103.204(f). Upon proof that respondents have been served, the Board referred complainant's motion for leave to file an amended complaint to the hearing officer for disposition.	7-0 A-E
<b>PCB 00-219</b>	<u>Stephen G. Brill v. Henry Latoria d/b/a T.L. Trucking Foodliner</u> – No action taken.	Citizens A&N-E
<b>PCB 01-39</b>	<u>Lannis Walters d/b/a Fat Boy Pizza (Get &amp; Go) v. IEPA</u> - No action taken.	UST-FRD
<b>PCB 01-167</b>	<u>People of the State of Illinois v. ESG Watts, Inc.</u> – The Board referred complainant's request for hearing on complaint and motion for leave to file first amended complaint to the hearing officer for disposition.	A,W&L-E
<b>PCB 02-19</b>	<u>ChemRex, Inc. v. IEPA</u> – The Board granted petitioner's motion for voluntary dismissal of this underground storage tank appeal involving a Cook County facility.	7-0 UST Appeal
<b>PCB 02-56</b>	<u>People of the State of Illinois v. Chiquita Processed Foods, L.L.C.</u> – The Board found complainant's motion to strike objections to the request to admit facts to be moot and accepted complainant's response to affirmative defenses.	7-0 W-E
<b>PCB 02-171</b>	<u>Reichhold Chemicals, Inc. (Corrective Actions Cost November 27, 1999 thru December 29, 2000) 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.	7-0 UST-FRD

<b>PCB 02-202</b>	<u>PM AG Products, 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 Pike County facility.	7-0 UST-FRD
<b>PCB 02-204</b>	<u>Illinois State Toll Highway Authority (ISTHA Maintenance Facility M-5; 1-90, Mile Post 11) 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.	7-0 UST-FRD
<b>PCB 02-205</b> <b>PCB 02-206</b>	<u>Home Oil Company v. IEPA</u> - The Board referred petitioner’s motion to supplement the record and to compel production to the hearing officer for disposition.	UST Fund
<b>PCB 03-3</b>	<u>Akzo Nobel Surface Chemistry L.L.C. v. IEPA</u> – The Board accepted for hearing this petition for variance from effluent limits involving a Grundy County facility.	7-0 W-V, NPDES
<b>PCB 03-7</b>	<u>Hurley Rulon, Carol Rulon, Frank Ewen, Janice Ewen, Jerome Hayn, Betty Hayn, John O. Schumann, Alice Schumann, Brenda Nord, Carl Nord, April Swan, Anthony Swan, Carol Adkins, Paul Adkins, and Paul Niebruegge v. Double D Gun Club</u> – The Board found that the alleged violations in the complaint were frivolous and dismissed this matter involving a Calhoun County facility.	7-0 Citizens L&W-E
<b>PCB 03-14</b>	<u>People of the State of Illinois v. Riba-Fairfield, Inc.</u> – The Board accepted for hearing this Resource Conservation and Recovery Act enforcement action involving a Macon County facility.	7-0 RCRA-E
<b>PCB 03-15</b>	<u>Rash, Inc. 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 Gallatin County facility.	7-0 UST-FRD 90-Day Ext.

<b>PCB 03-16</b>	<u>King's 66 Service Station 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 Madison County facility.	7-0 UST Appeal 90-Day Ext.
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<b>PCB 03-17</b>	<u>People of the State of Illinois v. Petroleum Fuel &amp; Terminal Company</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 Madison County facility, the Board ordered publication of the required newspaper notice.	7-0 A-E
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**CASES PENDING DECISION**

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R03-4	<u>In the Matter of: SDWA Update, USEPA Amendments (January 1, 2002 through June 30, 2002; LTIESWTR)</u> – Proposed Rule, Proposal for Public Comment, Opinion and Order	Flemal R-PWS
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PCB 92-201	<u>Gere Properties, Inc. v. Jackson County Board and Southern Illinois Regional Landfill, Inc.</u> (due 9/5)	Johnson PCFSR, Third Party
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**ADJOURNMENT**

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Moved and seconded, by a vote of 7-0, Chairman Manning 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 September 5, 2002 by a vote of.

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Dorothy M. Gunn, Clerk