

ILLINOIS POLLUTION CONTROL BOARD

DRAFT MEETING MINUTES



OCTOBER 3, 2002
Chicago/Springfield Videoconference
CHICAGO OFFICE – 100 W. Randolph Street
Video Conference Room 11-512
and
SPRINGFIELD OFFICE – 600 South Second Street
Video Conference Room 402
11:00 A.M.

ANNOUNCEMENTS

After calling the meeting to order, Chairman Manning welcomed members of the public, staff, and students from the University of Illinois, and announced that Member Marovitz would not be attending the meeting.

ROLL CALL

The Clerk of the Board called the roll. All Board Members answered present except for Member Marovitz who was absent.

APPROVAL OF MINUTES

Minutes of the September 19, 2002 meeting were approved by a vote of 5-0.

RULEMAKINGS

R03-7	<u>In the Matter of: RCRA Subtitle C Update, USEPA Amendments (January 1, 2002 through June 30, 2002)</u> – The Board adopted a proposal for public comment in this “identical-in-substance” rulemaking to amend the Board’s hazardous waste regulations.	5-0 R, Land
--------------	---	----------------

R03-8	<u>In the Matter of: Noise Rule Update: Amendments to 35 Ill. Adm. Code 900 and 903</u> – The Board adopted a proposal for public comment in this rulemaking to amend the Board’s noise pollution control regulations.	5-0 R, Noise
--------------	--	-----------------

ADMINISTRATIVE CITATIONS

AC 02-17 IEPA v. Charles Goodwin – The Board denied complainant’s motion for reconsideration. 5-0

AC 02-40 IEPA v. Robert and John Gray d/b/a Gray’s Material Service – In response to a joint stipulation and settlement agreement in this administrative citation action involving an Iroquois County facility, the Board found respondents violated Sections 21(p)(1) and (p)(3) Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002) and ordered respondents to pay a civil penalty of \$3,000. The Board also granted the parties’ joint motion to dismiss the alleged violation of Section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002, and dismiss the petition for review. 5-0

AC 03-1 IEPA v. Tony Luttrell – No action taken.

AC 03-6 IEPA v. Edward Sapp – The Board found that this Logan County respondent violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002), and ordered respondent to pay a civil penalty of \$3,000. 4-1
Girard
dissented

AC 03-7 IEPA v. Herb Flannel and Wallace Excavating Company – The Board found that these Moultrie County respondents violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002), and ordered respondents to pay a civil penalty of \$4,500. 4-1
Girard
dissented

AC 03-9 IEPA v. Robert Peters – In response to a joint stipulation and settlement agreement in this administrative citation action involving an Adams County facility, the Board found respondent violated Section 21(p)(1) Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002) and ordered respondent to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss the alleged violation of Section 21(p)(5) of the Act (415 ILCS 5/21(p)(5) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002).

ADJUDICATORY CASES

Decisions

PCB 03-17 People of the State of Illinois v. Petroleum Fuel & Terminal Company – In this air enforcement action concerning a Madison 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) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002), accepted a final stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$22,000, and to cease and desist from further violations. Respondent agreed to perform by December 31, 2003, a Supplemental Environmental Project or payment of an additional \$28,000 in penalties, if it fails to do so.

PCB 03-23 People of the State of Illinois v. City of Des Plaines and McDonough Associates, Inc. – In this public water supply 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) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002), accepted a final stipulation and settlement agreement, and ordered the respondents to pay a total civil penalty of \$26,000, and to cease and desist from further violations.

Provisional Variances

PCB 03-40	<u>Exelon Generation Company, L.L.C. (Dresden Nuclear Generating Station) v. IEPA</u> – Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Winnebago County facility a 10-day provisional variance, subject to conditions, from the thermal discharge limits contained in special conditions 4(A), 4(D), and 4(G) of its National Pollution Discharge Elimination System permit number IL0002224.	5-0 W-V
------------------	---	------------

Motions and Other Matters

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

PCB 95-78	<u>Vogue Tyre & Rubber Company v. Office of the State Fire Marshal</u> – Respondent’s motion for summary judgment and petitioner’s motion for extension of time to file a response were referred to the hearing officer for disposition.	UST Fund
------------------	--	----------

PCB 96-98	<u>People of the State of Illinois v. Skokie Valley Asphalt Company</u> – No action taken.	W-E
------------------	--	-----

PCB 96-143	<u>People of the State of Illinois v. Michel Grain Company, Inc. a/k/a Michel Fertilizer, Caryle Michel, Ronnie Todd, and Ronnie Todd Land Trust</u> – The Board granted complainant’s motion to file a third amended complaint, accepted the complaint for hearing and granted the request to add the Ronnie Todd Land Trust as a respondent in this matter.	5-0 W-E
-------------------	---	------------

PCB 97-69	<u>People of the State of Illinois v. Economy Plating, Inc.</u> – The Board granted complainant’s leave to file to an amended complaint, correcting the errors in its amended complaint filed on August 12, 2002.	5-0 A-E
------------------	---	------------

PCB 97-193	<u>People of the State of Illinois v. Community Landfill Company, Inc.</u> – The Board granted complainant’s motion for partial summary judgment in part and denied the motion in part. The Board also granted respondent’s motion for partial summary judgment in part and denied the motion in part. The Board found that respondent had violated the Environmental Protection Act (415 ILCS 5/1 <i>et seq.</i> (2000), <i>amended by</i> P.A. 92-0574, eff. June 26, 2002) and Board regulations as specified in counts III, IV, VII, VIII, IX, X, XIII, XIV, XVI, and XXI of the complaint, and as specified in part	5-0 L-E
-------------------	--	------------

of count XIX of the complaint. The parties shall proceed to hearing to present evidence on the appropriate penalty to be levied against respondent for these violations. In addition, the parties shall proceed to hearing on counts I, II, VI, XV, XVII, XX, and in part of count XIX to determine the liability of the respondent. The Board dismissed counts XI, XVIII, and XXII.

PCB 99-134	<u>People of the State of Illinois v. Peabody Coal Company</u> – The Board refused to accept complainant’s third amended complaint in this matter, and ordered complainant to file another amended complaint removing allegations of a violation of Section 302.208 within 14 days or the Board will dismiss this case.	5-0 W-E
PCB 00-160	<u>ESG Watts, Inc. (Sangamon Valley Landfill) v. IEPA</u> – No action taken.	P-A, Land
PCB 02-6	<u>Gould Electronics, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this permit appeal involving a Stephenson County facility.	5-0 P-A, Land
PCB 02-56	<u>People of the State of Illinois v. Chiquita Processed Foods, L.L.C.</u> – No action taken.	W-E
PCB 02-157	<u>David L. Weber and Rachel B. Weber v. Cisco United Methodist Church</u> – No action taken.	Citizens N-E
PCB 02-187	<u>UOP L.L.C. v. IEPA</u> – The Board granted petitioner’s motion to stay the effectiveness of the permit.	5-0 P-A, Air
PCB 02-210	<u>Elston/Webster, LP v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Cook County facility.	5-0 UST Appeal

PCB 02-212	<u>Shearon, 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 McHenry County facility.	5-0 UST Fund
PCB 02-216	<u>Prime Time Citgo, 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 Kane County facility.	5-0 UST Fund
PCB 02-218	<u>Ampco Pittsburgh Corporation 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 UST Appeal
PCB 02-220	<u>Newton Community High School 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 Jasper County facility.	5-0 UST Appeal
PCB 02-224	<u>Atchison Amoco 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 Randolph County facility.	5-0 UST Fund
PCB 03-21	<u>Clean The Uniform Company - Highland v. Aramark Uniform & Career Apparel, Inc.</u> – The Board held for a later duplicative/frivolous determination this citizen’s land and water enforcement action involving a Madison County facility.	Citizens L&W-E
PCB 03-22	<u>People of the State of Illinois v. Saint-Gobain Containers, Inc.</u> Respondent’s request for extension of time to answer complaint was referred to the hearing officer for disposition.	A-E

PCB 03-30	<u>Jim Siddiqui Property 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.	5-0 UST Fund 90-Day Ext.
PCB 03-31	<u>County of Kankakee and Edward D. Smith, States Attorney of Kankakee County v. The City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc., and Kankakee Regional Landfill, L.L.C.</u> – The Board accepted for hearing this third-party pollution control facility siting appeal involving a Kankakee County facility and on its own motion consolidated this matter with PCB 03-33 and PCB 03-35.	5-0 P-C-F-S-R 3rd Party
PCB 03-32	<u>People of the State of Illinois v. City of Chicago Heights and Robinson Engineering, Ltd.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this public water supply enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	5-0 PWS-E
PCB 03-33	<u>Byron Sandberg v. The City of Kankakee, Illinois, The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc., and Kankakee Regional Landfill, L.L.C.</u> – The Board accepted for hearing this third-party pollution control facility siting appeal involving a Kankakee County facility and on its own motion consolidated this matter with PCB 03-31 and PCB 03-35. The Board denied respondent Sandberg’s request for waiver of the mandatory filing fee.	5-0 P-C-F-S-R 3rd Party
PCB 03-34	<u>Barry Amoco, 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 Pike County facility.	5-0 UST Fund 90-Day Ext.

PCB 03-35	<u>Waste Management of Illinois, Inc. v. The City of Kankakee, Illinois City Council, Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.</u> – The Board accepted for hearing this third-party pollution control facility siting appeal involving a Kankakee County facility and on its own motion consolidated this matter with PCB 03-31 and PCB 03-33.	5-0 P-C-F-S-R 3rd Party
PCB 03-36	<u>D&R 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 Randolph County facility.	5-0 UST Fund 90-Day Ext.
PCB 03-37	<u>Illinois Ayers 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 Knox County facility.	5-0 UST Fund
PCB 03-38	<u>Morry Gabel, Myra Gabel, Don Foreman, Marsha Foreman, Keith Pinsoneault, and Tracy Pinsoneault v. The Wealshire, Inc.</u> – The Board held for a later duplicative/frivolous determination this citizen’s noise enforcement action involving a Lake County facility.	N-E
PCB 03-39	<u>Mineral Solutions, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Tazewell County facility.	5-0 P-A, Land

ADJOURNMENT

Moved and seconded, by a vote of 7-0, Chairman Manning adjourned the meeting at 11:35 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on October 17, 2002 by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board