

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



OCTOBER 1, 1998 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ANNOUNCEMENTS

After calling the meeting to order, Chairman Manning welcomed members of the public and staff to the meeting, and noted the attendance of former Board Member Bill Forcade.

ROLL CALL

The Clerk of the Board called the roll and all Board Members answered present.

APPROVAL OF MINUTES

Minutes of the September 17, 1998 meeting were approved by a vote of 7-0.

RULEMAKINGS

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| R97-29 | <u>In the Matter of: Amendments to Requirements for Landscape Waste Compost Facilities, 35 Ill. Adm. Code 830.203(c), 831.107, and 831.109(b)(3)</u> - The Board adopted a second-notice opinion and order in this proposed rulemaking to amend the location standards for compost facilities, to establish a setback requirement from schools, hospitals, and various other facilities. | 7-0
R, Land |
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| R99-8 | <u>In the Matter of: Permitting Procedures for the Lake Michigan Basin 35 Ill. Adm. Code 301 and 309.141</u> - No action taken. | R, Water |
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ADJUSTED STANDARDS

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| AS 99-2 | <u>In the Matter of: Petition of Sun Chemical Corporation for an Adjusted Standard from 35 Ill. Adm. Code 218.626(b)</u> - The Board entered an order directing petitioner to file proof it has published notice of the filing of the petition by October 8, 1998, or this petition would be subject to dismissal. | 7-0
Air |
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| AS 99-3 | <u>In the Matter of: Petition of Big River Zinc Corporation for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c)</u> - No action taken. The Board acknowledged receipt of this petition for a adjusted standard from certain requirements on behalf of a St. Clair County facility and held it pending receipt of certificate publication. | Land,
RCRA |
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ADMINISTRATIVE CITATIONS

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| AC 99-37 | <u>IEPA v. James Harris</u> - In response to a joint stipulation and settlement agreement in this administrative citation action involving a Knox County facility, the Board found this respondent violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (1996)), and ordered respondent to pay a civil penalty of \$500. | 7-0 |
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| AC 99-7 | <u>IEPA v. David Swearingen</u> - The Board found that this Moultrie County respondent violated Sections 21(p)(1) and 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(3) (1996)) and ordered respondent to pay a civil penalty of \$1,000. | 7-0 |
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| AC 99-8 | <u>IEPA v. William Burr and Shirley Burr</u> - The Board accepted for hearing this petition for review of an administrative citation against these Marion County respondents. | |
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| AC 99-13 | <u>County of Jackson v. Douglas Adams</u> - The Board accepted an administrative citation against this Jackson County respondent. | |
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ADJUDICATORY CASES

Decisions

PCB 98-58	<u>People of the State of Illinois v. Stephen Berger d/b/a Layer One</u> - The Board granted relief from the hearing requirement of Section 31(c)(2) of the Environmental Protection Act, accepted a stipulation and settlement agreement in this Resource Conservation and Recovery Act and land enforcement action involving a Winnebago County facility, and ordered respondent to pay a civil penalty of \$6,000, and to cease and desist from further violations.	7-0 RCRA-E
PCB 98-81	<u>Charter Hall Homeowner's Association and Jeff Cohen v. Overland Transportation System, Inc. and D.P. Cartage, Inc.</u> - The Board found that these Cook County respondents violated Section 24 of the Environmental Protection Act and 35 Ill. Adm. Code 900.102(b). The issue of appropriate remedies, including civil penalties, will be addressed at hearing.	7-0 N-E, Citizens
PCB 98-86	<u>People of the State of Illinois v. Harris Bank Barrington, as Trustee for Trust No. 11-5062, Kurt Kresmery individually as beneficiary of Trust No. 11-5062, and Kenneth Kresmery</u> - The Board granted relief from the hearing requirement of Section 31(c)(2) of the Environmental Protection Act, accepted a stipulation and settlement agreement in this air enforcement action involving a Kane County facility, and ordered respondent to pay a civil penalty of \$10,000, and to cease and desist from further violations.	7-0 A-E

Provisional Variances

PCB 99-48	<u>United States Department of the Interior-Crab Orchard National Wildlife Refuge v. IEPA</u> - Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Williamson County facility a 45-day provisional variance, subject to conditions, from 35 Ill. Adm. Code 304.141(b) and 35 Ill. Adm. Code 309.102 which prohibit discharges not specifically allowed by National Pollutant Discharge Elimination System permit, Section 12(f) of the Environmental Protection Act (415 ILCS 5/12(f) (1996)).	6-0 Hennessey abstained Water
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ADJUDICATORY CASES (CONTINUED)
MOTIONS AND OTHER MATTERS (CONTINUED)

PCB 99-49	<u>City of Hillsboro v. IEPA</u> - Upon receipt of an Illinois Environmental Protection Agency recommendation, the Board granted this Montgomery County facility a 45-day provisional variance, subject to conditions, from the five-day biochemical oxygen demand and total suspended solids limits set in 35 Ill. Adm. Code 304.141(a) and 35 Ill. Adm. Code 304.120 and imposed by National Pollutant Discharge Elimination System Permit No. IL0029203.	6-0 Hennessey abstained Water
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Motions and Other Matters

PCB 92-176	<u>Central Can Company v. IEPA</u> - The Board granted petitioner's motion for withdrawal of this permit appeal involving a Cook County facility.	7-0 P-A, Air
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PCB 96-261	<u>People of the State of Illinois v. G.M. Demolition Corporation</u> - The Board entered an order which granted complainant's motion for summary judgment in part and denied it in part. Respondent's motion for summary judgment was also granted in part and denied in part. The remaining issues, including civil penalties, will be addressed at hearing.	7-0 A-E
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PCB 97-50	<u>Lionel P. Trepanier, Wes Wager, Maureen Cole, Lorenz Joseph, Maxworks Garden Cooperative and Avi Pandya</u> - No action taken.	A-E, Citizens
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PCB 97-92	<u>People of the State of Illinois v. Victor G. Heuermann</u> - Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this water enforcement action against a Peoria County facility, the Board ordered publication of the required newspaper notice.	6-0 Hennessey abstained Water
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PCB 97-121	<u>Matteson WHP Partnership v. James W. Martin and Eva D. Martin, individually and d/b/a Martin's of Matteson</u> - No action taken.	RCRA-E, Citizens
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ADJUDICATORY CASES (CONTINUED)**MOTIONS AND OTHER MATTERS (CONTINUED)**

PCB 97-138	<u>People of the State of Illinois v. Leroy Cech d/b/a L&K American Wrecking</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 against a Cook County facility, the Board ordered publication of the required newspaper notice.	7-0 A-E
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PCB 97-214	<u>People of the State of Illinois v. Village of Carpentersville</u> - The Board granted parties' joint motion to amend the August 20, 1998 Board order.	6-0 Hennessey abstained W-E
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PCB 98-18	<u>James R. and Lucille J. Metz v. United States Postal Service</u> - No action taken.	N-E, Citizens
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PCB 98-31	<u>Roy K. Johnson v. Archer Daniel Midland-Demeter Hoopeston Division</u> - No action taken.	A&N-E, Citizens
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PCB 98-147	<u>Jake Seabury v. IEPA</u> - The Board dismissed this matter involving a Cook County facility for failure to timely file an amended petition.	7-0 UST-FRD 90-Day Ext.
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PCB 99-10	<u>Ted Pilson v. IEPA</u> - Having previously granted a request for a 90-day extension, the Board dismissed the matter because no underground storage tank appeal was timely filed on behalf of this Gallatin County facility.	7-0 UST-Appeal 90-Day Ext.
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PCB 99-18	<u>BASF Corporation v. IEPA</u> - Having previously granted a request for a 90-day extension, the Board dismissed the matter because no underground storage tank appeal was timely filed on behalf of this Will County facility.	7-0 UST-Appeal 90-Day Ext.

ADJUDICATORY CASES (CONTINUED)
MOTIONS AND OTHER MATTERS (CONTINUED)

PCB 99-30	<u>Lucille Wathen v. Daniel and Wendy Stryker</u> - The Board found that the noise pollution allegations in this matter were not duplicitous or frivolous, and accepted this citizen's noise enforcement action involving a Cook County facility for hearing.	7-0 N-E Citizens
PCB 99-41	<u>White Cap, Inc. v. IEPA</u> - The Board granted petitioner's request to incorporate into the instant petition the petition for variance, the transcript from hearing, and the opinion and order of the Board in PCB 98-24; the matter was held for receipt of an Agency Recommendation.	7-0 A-V
PCB 99-44	<u>Butterick Company, 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 a Cook County facility.	7-0 UST-Appeal 90-Day Ext.
PCB 99-45	<u>People of the State of Illinois v. Patrick M. Sullivan, an individual, and Nick Scarlatis, an individual</u> - The Board accepted for hearing this water enforcement action against a Cook County facility.	W-E
PCB 99-46	<u>Illinois State Toll Highway Authority (Belvidere Oasis on I-90 West Bound) 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 a Boone County facility.	7-0 UST-Appeal 90-Day Ext.
PCB 99-47	<u>Illinois State Toll Highway Authority (Belvidere Oasis on I-90 East Bound) 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 a Boone County facility.	7-0 UST-Appeal 90-Day Ext.
CASES PENDING DECISION		
R98-27	<u>In the Matter of: Review of Remediation Costs for Environmental Remediation Tax Credit (Amendments to 35 Ill. Adm. Code 740) - Adopted Rule, Final Order, Opinion and Order</u>	Hennessey R, Land

CASES PENDING DECISION (CONTINUED)

R98-29

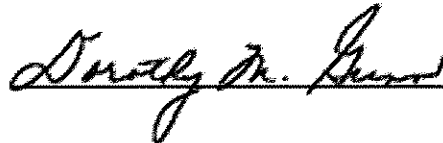
In the Matter of: Nonhazardous Special Waste Hauling and the
Uniform Program: 35 Ill. Adm. Code 809 - Proposed Rule, First
Notice, Opinion and Order

Yi
R, Land

ADJOURNMENT

Moved and seconded, by a vote of 7-0, Chairman Manning adjourned the meeting at 11:00 a.m. to an Executive Session in the Chairman's office.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, hereby certify that the above minutes were approved this 15th day of October 1998 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

MEETING AGENDA



OCTOBER 1, 1998 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ANNOUNCEMENTS

The Pollution Control Board welcomes the public to this open meeting. During the meeting itself, only the Board Members or staff that are recognized by the Chairman are allowed to speak. If you have any questions about anything that occurred at the meeting, please feel free, after the meeting, to direct your questions to any one of the many staff members in attendance.

Appearance of an item on the agenda does not guarantee that the Board will take action on that item, since the Board may decide to hold the item over for additional review and action at a later meeting. Thank you for your interest.

ROLL CALL

APPROVAL OF MINUTES

September 17, 1998

RULEMAKINGS

R97-29	<u>In the Matter of: Amendments to Requirements for Landscape Waste Compost Facilities, 35 Ill. Adm. Code 830.203(c), 831.107, and 831.109(b)(3) - Proposed Rule, Second Notice, Opinion and Order</u>	Hennessey R, Land
R99-8	<u>In the Matter of: Permitting Procedures for the Lake Michigan Basin 35 Ill. Adm. Code 301 and 309.141 - Illinois Environmental Regulatory Group's Motion to Dismiss (9/29)</u>	Girard Manning Melas R, Water

ADJUSTED STANDARDS

AS 99-2	<u>In the Matter of: Petition of Sun Chemical Corporation for an Adjusted Standard from 35 Ill. Adm. Code 218.626(b) - (See Agency Motion for Extension of Time to File Response and Affidavit filed 9/18) - Order</u>	Fleml Air
AS 99-3	<u>In the Matter of: Petition of Big River Zinc Corporation for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c) - Hold for Certificate of Publication</u>	Land, RCRA

ADMINISTRATIVE CITATIONS

AC 98-37	<u>IEPA v. James Harris - Joint Stipulation of Settlement and Dismissal of Respondent's Petition for Administrative Review (9/18)</u>	Melas
AC 99-7	<u>IEPA v. David Swearingen - Default Order</u>	Manning
AC 99-8	<u>IEPA v. William Burr and Shirley Burr - Accept for Hearing - No Order</u>	
AC 99-13	<u>County of Jackson v. Douglas Adams - Accept Case - No Order</u>	

ADJUDICATORY CASES

Decisions

PCB 98-58	<u>People of the State of Illinois v. Stephen Berger d/b/a Layer One - Stipulation</u>	Hennessey RCRA-E
PCB 98-81	<u>Charter Hall Homeowner's Association and Jeff Cohen v. Overland Transportation System, Inc. and D.P. Cartage, Inc. - Interim Opinion and Order</u>	Hennessey N-E, Citizens

ADJUDICATORY CASES (CONTINUED)

Decisions (Continued)

PCB 98-86	<u>People of the State of Illinois v. Harris Bank Barrington, as Trustee for Trust No. 11-5062, Kurt Kresmery individually as beneficiary of Trust No. 11-5062, and Kenneth Kresmery - Stipulation</u>	Yi A-E
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Provisional Variances

Since the Board must decide provisional variances within forty-eight hours of their filing, any provisional variances filed prior to this meeting will be included here.

PCB 99-48	<u>United States Department of the Interior-Crab Orchard National Wildlife Refuge v. IEPA - Provisional Variance</u>	Manning W-V
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PCB 99-49	<u>City of Hillsboro v. IEPA - Provisional Variance</u>	Manning W-V
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Motions and Other Matters

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

PCB 92-176	<u>Central Can Company v. IEPA - Agreed Motion to Dismiss (9/18)</u>	McFawn P-A, Air
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PCB 96-261	<u>People of the State of Illinois v. G.M. Demolition Corporation - Complainant's Motion for Summary Judgment (1/27), Respondent's Motion for Partial Summary Judgment and Memorandum in Opposition to Complainant's Motion for Summary Judgment and in Support of Respondent's Motion for Partial Summary Judgment (4/9), Complainant's Response to Respondent's Motion for Partial Summary Judgment and Complainant's Memorandum in Support of its Reply to Memorandum in Opposition to Complainant's Motion for Summary Judgment (5/7), Respondent's Reply Memorandum in Opposition to Complainant's Motion for Summary Judgment and in Support of Respondent's Motion for Partial Summary Judgment (7/15)</u>	Melas A-E
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ADJUDICATORY CASES (CONTINUED)

Motions and Other Matters (Continued)

PCB 97-50	<u>Lionel P. Trepanier, Wes Wager, Maureen Cole, Lorenz Joseph, Maxworks Garden Cooperative and Avi Pandya v. Speedway Wrecking Company and the Board of Trustees of the University of Illinois</u> - Respondents' Joint Motion for Summary Judgment and Respondents' Memorandum in Support of Joint Motion for Summary Judgment (6/22), Complainants' Motion To Strike Respondents' Affidavits and Motion for Summary Judgment (7/13), Respondents' Joint Memorandum in Opposition to Certain Complainants' Motion to Strike (7/20), Complainants' Response to Respondents' Motion for Summary Judgment (8/17), Complainants' Motion for Correction of Typographical Error in August 14, 1998 Affidavit of Trepanier Opposing Summary Judgment Motion (8/17), Respondents' Reply Memorandum in Support of Their Joint Motion for Summary Judgment (8/21), Respondents' Joint Memorandum in Opposition to Petitioners' Motion for Leave to File Instanter Petitioners' Response to Respondents' Reply Memorandum (9/9), Respondent Speedway Wrecking Company's Motion to Clarify Record (9/9), Complainants' Response to Respondents' Joint Memorandum regarding Complainants' Request to File Instanter a Response to the Respondents Final brief in Support of their Motion for Summary Judgment (9/23)	Hennessey A-E, Citizens
PCB 97-92	<u>People of the State of Illinois v. Victor G. Heuermann</u> - Motion for Relief from Hearing Requirement (9/22)	Manning W-E
PCB 97-121	<u>Matteson WHP Partnership v. James W. Martin and Eva D. Martin, individually and d/b/a Martin's of Matteson</u> - Complainant's Motion for Summary Judgment (7/2), Respondents' Response to Complainant's Motion for Summary Judgment (8/20), Complainant's Reply in Support of Motion for Summary Judgment (9/2)	McFawn RCRA-E, Citizens
PCB 97-138	<u>People of the State of Illinois v. Leroy Cech d/b/a L&K American Wrecking</u> - Motion to Request Relief from the Hearing Requirement (9/25)	Melas A-E

ADJUDICATORY CASES (CONTINUED)

Motions and Other Matters (Continued)

PCB 97-214	<u>People of the State of Illinois v. Village of Carpentersville</u> - Joint Motion to Amend August 20, 1998 Board Order (9/14)	McFawn W-E
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PCB 98-18	<u>James R. and Lucille J. Metz v. United States Postal Service</u> - Complainants' Motion for Leave to File Amended Formal Complaint and Amended Complaint (8/5), Respondent's Motion to Dismiss Amended Complaint (8/20), Complainants' Motion to File Instant Answer to Respondent's Motion to Dismiss Amended Complaint (9/2), Motion to File Instant Motion to Dismiss by Bradley Real Estate (9/3), Complainants' Answer to Bradley Real Estate's Motion to Dismiss (9/10)	Girard N-E, Citizens
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PCB 98-31	<u>Roy K. Johnson v. Archer Daniel Midland-Demeter Hoopeston Division</u> - Respondent's Memorandum in Support of its Motion for Summary Judgment and Motion for Summary Judgment (9/18)	Hennessey A&N-E, Citizens
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PCB 98-147	<u>Jake Seabury v. IEPA</u> - Dismissal Order	Manning UST-FRD 90-Day Ext.
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PCB 99-10	<u>Ted Pilson v. IEPA</u> - Dismissal Order	Manning UST-Appeal 90-Day Ext.
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PCB 99-11	<u>Freightliner of Chicago v. IEPA</u> - Dismissal Order	Manning UST-Appeal 90-Day Ext.
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PCB 99-18	<u>BASF Corporation v. IEPA</u> - Dismissal Order	Manning P-A 90-Day Ext.
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ADJUDICATORY CASES (CONTINUED)

Motions and Other Matters (Continued)

PCB 99-30	<u>Lucille Wathen v. Daniel and Wendy Stryker</u> - Duplicitous/Frivolous Determination Order	Melas N-E Citizens
PCB 99-41	<u>White Cap, Inc. v. IEPA</u> - (See Petitioner's Request to Incorporate Prior Record included in the Petition at Page 1)	Yi A-V
PCB 99-44	<u>Butterick Company, Inc. v. IEPA</u> - Joint Request for 90-Day Extension of Appeal Period (9/17) - Order	Manning UST-Appeal 90-Day Ext.
PCB 99-45	<u>People of the State of Illinois v. Patrick M. Sullivan, an individual, and Nick Scarlatis, an individual</u> - Hearing Mandatory - No Order	W-E
PCB 99-46	<u>Illinois State Toll Highway Authority (Belvidere Oasis on I-90 West Bound) v. IEPA</u> - Joint Request for 90-Day Extension of Appeal Period (9/28) - Order	Manning UST-Appeal 90-Day Ext.
PCB 99-47	<u>Illinois State Toll Highway Authority (Belvidere Oasis on I-90 East Bound) v. IEPA</u> - Joint Request for 90-Day Extension of Appeal Period (9/28) - Order	Manning UST-Appeal 90-Day Ext.

CASES PENDING DECISION

R98-27	<u>In the Matter of: Review of Remediation Costs for Environmental Remediation Tax Credit (Amendments to 35 Ill. Adm. Code 740)</u> - Adopted Rule, Final Order, Opinion and Order	Hennessey R, Land
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CASES PENDING DECISION (CONTINUED)

R98-29	<u>In the Matter of: Nonhazardous Special Waste Hauling and the Uniform Program: 35 Ill. Adm. Code 809 - Proposed Rule, First Notice, Opinion and Order</u>	Yi R, Land
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OTHER ITEMS

ADJOURNMENT

CASE TYPE CODES:

3d P	Third Party Action	A-C	Administrative Citation
A-E	Air Enforcement	A-S	Adjusted Standard
A-V	Air Variance	CSO	Combined Sewer Overflow Exception
GW	Groundwater	HW Delist RCRA	Hazardous Waste Delisting
L-E	Land Enforcement	L-S-R	Landfill Siting Review
L-V	Land Variance	MW	Medical Waste (Biological Materials)
N-E	Noise Enforcement	N-V	Noise Variance
P-A	Permit Appeal	PWS-E	Public Water Supply Enforcement
PWS-V	Public Water Supply Variance	R	Regulatory Proceeding
RCRA	Resource Conservation and Recovery Act proceeding (hazardous waste only)	S02	S02 Alternative Standards (35 ILL. ADM. CODE 302.211(f))
SWH-E	Special Waste Hauling Enforcement	SWH-V	Special Waste Hauling Variance
T	Thermal Demonstration Rule	T-C	Tax Certifications
T-S	Trade Secrets	UST-Appeal	Underground Storage Tank Corrective Action Appeal
UST-E	Underground Storage Tank Enforcement	UST-FRD	Underground Storage Tank Fund Reimbursement Determination
W-E	Water Enforcement	W-V	Water Variance
WWS	Water-Well Setback Exception		

ILLINOIS POLLUTION CONTROL BOARD

NEW CASE LISTING



NEW CASES FILED SINCE SEPTEMBER 3, 1998 BOARD MEETING

AS 99-3	In the Matter of: Petition of Big River Zinc Corporation for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c)
AC 99-13	County of Jackson v. Douglas Adams
PCB 99-44	Butterick Company, Inc. v. IEPA
PCB 99-45	People of the State of Illinois v. Patrick M. Sullivan, an individual, and Nick Scarlatis, an individual
PCB 99-46	Illinois State Toll Highway Authority (Belvidere Oasis on I-90 West Bound (North)) v. IEPA
PCB 99-47	Illinois State Toll Highway Authority (Belvidere Oasis on I-90 East Bound (South)) v. IEPA
PCB 99-48	United States Department of the Interior-Crab Orchard National Wildlife Refuge v. IEPA
PCB 99-49	City of Hillsboro v. IEPA