

# ILLINOIS POLLUTION CONTROL BOARD

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## DRAFT MEETING MINUTES



**FEBRUARY 6, 2003**  
**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**

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After calling the meeting to order, Chairman Johnson welcomed members of the public and staff to the meeting.

### **ROLL CALL**

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

### **APPROVAL OF MINUTES**

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Minutes of the January 23, 2003 meeting were approved by a vote of 6-0, Member Padovan abstained.

### **RULEMAKINGS**

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<b>R98-11</b>	<u>In the Matter of: Amendments to 35 Ill. Adm. Code 501 through 504 : Agriculture Related Pollution (Management of Livestock Waste) – On its own motion, the Board dismissed this docket to amend the Board’s livestock waste rules.</u>	7-0 R, Land
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**R02-10**      In the Matter of: Amendments to General Permitting Provisions for Portable Emission Units: Amendments to 35 Ill. Adm. Code 201 – The Board adopted a final opinion and order in this matter to amend the Board’s air regulations.      7-0  
R, Air

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**R03-12**      In the Matter of: UST Update, USEPA Amendments (July 1, 2002 through December 31, 2002) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its exemptions from the definition of underground storage tank regulations during the update period of July 1, 2002 through December 31, 2002.      7-0  
R, Land

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**R03-14**      In the Matter of: Definition of VOM Update, USEPA Amendments (July 1, 2002 through December 31, 2002) – The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its exemptions from the definition of volatile organic material regulations during the update period of July 1, 2002 through December 31, 2002.      7-0  
R, Air

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**R03- 16**      UIC Update, USEPA Amendments (July 1, 2002 through December 31, 2002) - The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its underground injection control regulations during the update period of July 1, 2002 through December 31, 2002.      7-0  
R, Land

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**R03-17**      RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (July 1, 2002 through December 31, 2002) - The Board dismissed this reserved identical-in-substance docket because the United States Environmental Protection Agency did not amend its non-hazardous waste regulations during the update period of July 1, 2002 through December 31, 2002.      7-0  
R, Land

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## ADJUSTED STANDARDS

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<b>AS 03-1</b>	<u>In the Matter of: Petition of Exelon Generation Company for and Adjusted Standard from 35 Ill. Adm. Code 302.208</u> – The Board ordered this Will County petitioner to file an amended petition curing noted deficiencies by May 7, 2003, or this action will be dismissed.	7-0 Water
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## ADMINISTRATIVE CITATIONS

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<b>AC 03-14</b>	<u>IEPA v. James Qualls</u> – The Board found that this Clay County respondent violated Section 21(p)(1), (5), (7) of the Act (415 ILCS 5/21(p)(1), (5), (7) (2002) and ordered respondent to pay a civil penalty of \$4,500.	6-1 Girard dissented
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<b>AC 03-15</b>	<u>IEPA v. Paul Rider</u> – The Board accepted for hearing this petition for review of an administrative citation against this McLean County respondent.	7-0
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<b>AC 03-20</b>	<u>IEPA v. Manzell Lawson, Sr.</u> – The Board accepted an administrative citation against this Peoria County respondent.	
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## ADJUDICATORY CASES

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### Decisions

<b>PCB 00-160</b>	<u>ESG Watts, Inc. (Sangamon Valley Landfill) v. IEPA</u> – The Board dismissed the petition for hearing as moot, based on events occurring following remand of this case to the Board by the Appellate Court.	7-0 P-A, Land
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<b>PCB 00-163</b>	<u>David and Jacquelyn McDonough v. Gary Robke</u> – The Board previously found that respondent violated Section 24 of the Illinois Environmental Protection Act (415 ILCS 5/24 (1996)) and 35 Ill. Adm. Code 900.102. In its final order, the Board ordered respondent to take certain remedial actions to alleviate the noise emissions reaching complainants' residence.	6-1 Tristano dissented Citizens N-E
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**PCB 02-21** People of the State of Illinois v. J&F Hauling, Inc. – The Board previously found respondent in violation of Sections 21(a), (d)(1) and (2), (e), and (p)(1), and 55(a) of the Environmental Protection Act (415 ILCS 5/21(a),(d)(1) and (2),(e),(p)(1) and 55(a) (2000)) and 35 Ill. Adm. Code 722.111, 808.121, and 812.101(a). In this interim order, the Board concluded that respondent must pay a civil penalty of \$60,000 for violating the above hazardous waste and special waste provisions of the Act and the Board’s regulations. Complainant must file an affidavit in support of any claimed costs and attorney fees by February 20, 2003, and respondent has 14 days after being served with the affidavit to respond to the complainant’s claimed costs and attorney fees.

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*Motions and Other Matters*

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

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**PCB 96-143** People of the State of Illinois v. Michel Grain Company, Inc. d/b/a Michel Fertilizer, Caryle Michel, Ronnie Todd, and Ronnie Todd Land Trust – The Board granted complainant’s motion to strike respondent Todd’s affirmative defenses. The Board granted in part complainant’s motion to strike respondents’ Michel Grain and Michel’s affirmative defenses.

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**PCB 99-187** Gina Pattermann, Lisa Collins, and Deen Collins v. Boughton Trucking and Materials, Inc. – No action taken.

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<b>PCB 00-103</b>	<u>People of the State of Illinois v. Mano Negra Wrecking Corporation f/k/a Mano Negra Corporation and Fernando O. Zamora individually and as president of Mano Negra Wrecking Corporation</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 Cook County facility, the Board ordered publication of the required newspaper notice.	7-0 A-E
<b>PCB 02-47</b>	<u>Pacella &amp; Sons v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of these underground storage tank appeals involving a Jersey County facility.	7-0 UST Fund
<b>PCB 02-162</b>	<u>People of the State of Illinois v. Fox Valley Dry Wall, Inc.</u> – No action taken.	L-E
<b>PCB 03-50</b>	<u>East Side Shell v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Fulton County facility.	7-0 UST Appeal
<b>PCB 03-51</b>	<u>People of the State of Illinois v. Draw Drape Cleaners, Inc.</u> – No action taken.	A-E
<b>PCB 03-55</b>	<u>2222 Elston L.L.C. v. Purex Industries, Inc., Federal Die Casting Co., Federal Chicago Corp., Raymond E. Cross, Beverly Bank Trust No. 8-7611, and Lakeside Bank Trust Nos. 10-1087 &amp; 10-1343</u> – No action taken.	Citizens UST-E
<b>PCB 03-57</b>	<u>Leslie C. Ko 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.	7-0 UST Appeal
<b>PCB 03-58</b>	<u>Pechiney Plastic Packaging, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Kane County facility.	7-0 P-A, Air

<b>PCB 03-59</b>	<u>Midwest Petroleum Co. d/b/a Godfrey Sunoco v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Madison County facility.	7-0 UST Appeal
<b>PCB 03-60</b>	<u>V.W. Bowman Oil Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Union County facility.	7-0 UST Appeal
<b>PCB 03-61</b>	<u>Brock Oil Company (Normal) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a McLean County facility.	7-0 UST Appeal
<b>PCB 03-62</b>	<u>Brock Oil Company (Hoopeston) v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Vermilion County facility.	7-0 UST Appeal
<b>PCB 03-63</b>	<u>Goben 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 Clark County facility.	7-0 UST Appeal
<b>PCB 03-82</b>	<u>PPG Industries, Inc. v. IEPA</u> – The Board granted petitioner’s motion to stay effectiveness of this appealed CAAPP permit.	7-0 P-A, Air
<b>PCB 03-95</b>	<u>Abitec Corporation v. IEPA</u> – The Board denied petitioner’s motion to stay effectiveness of this appealed CAAPP permit.	7-0 P-A, Air

<b>PCB 03-96</b>	<u>Martin E. &amp; Kathy L. Geber v. Clayton Moushon, Carri Scharf Trucking and Materials, City of East Peoria, Mayor Chuck Dobbelaire, and City Administrator James Brimberry</u> – The Board found that the alleged violations of Sections 23 through 25 of the Environmental Protection Act (Act) (415 ILCS 5/23-25 (2002)) as well as Section 900.102 (35 Ill. Adm. Code 900.102) and Section 901.104 (35 Ill. Adm. Code 901.104) of the Board’s noise rules were neither duplicative nor frivolous with regard to Clayton Moushon and Carri Scharf Trucking and Materials. The Board accepted those allegations involving a Tazewell County facility for hearing. The Board found that complainants’ complaint failed to state a cause of action against the City of East Peoria, Mayor Chuck Dobbelaire, and the City Administrator James Thomas Brimberry, and dismissed them from this action. The alleged violations of Sections 23 through 25 of the Act (415 ILCS 5/23-25 (2002)) were determined to be frivolous, and the Board dismissed them from the complaint. enforcement action involving a Peoria County facility.	Citizens N-E
<b>PCB 03-98</b>	<u>Nielsen &amp; Bainbridge, L.L.C. v. IEPA</u> – The Board granted petitioners motion to stay effectiveness of CAAPP permit until the Board’s final action in this matter or until the Board orders otherwise.	7-0 P-A, Air
<b>PCB 03-106</b>	<u>Village of South Elgin v. Waste Management of Illinois, Inc.</u> – No action taken.	Citizens L-E
<b>PCB 03-108</b>	<u>People of the State of Illinois v. Village of Keensburg and David Dallas d/b/a Dallas Consulting , Engineering-Surveying</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 Wabash County facility, the Board ordered publication of the required newspaper notice.	7-0 PWS-E
<b>PCB 03-109</b>	<u>Fred Sierzega 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.	7-0 UST Appeal 90-Day Ext.

<b>PCB 03-110</b>	<u>Talcott Building Partnership v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility. No action taken on respondent’s motion for extension of time to file the administrative record.	7-0 UST Appeal
<b>PCB 03-111</b>	<u>New Dominion Farms of Illinois, Inc. v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of New Dominion Farms of Illinois, Inc. located in Schuyler County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	7-0 T-C
<b>PCB 03-112</b>	<u>F2, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Williamson County facility.	7-0 UST Appeal 90-Day Ext.
<b>PCB 03-113</b>	<u>Clark Oil Station #1655 v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Vermilion County facility.	7-0 UST Fund 90-Day Ext.
<b>PCB 03-114</b>	<u>Village of Karnak v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Pulaski County facility.	7-0 UST Appeal 90-Day Ext.
<b>PCB 03-115</b>	<u>David B. Haworth v. Coresaw Log &amp; Lumber, Inc.</u> – The Board held for a later duplicative/frivolous determination this citizen’s noise enforcement action involving a Marshall County facility.	Citizens N-E



<b>PCB 03-116</b>	<u>William Breuer v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Washington County facility.	7-0 UST Appeal 90-Day Ext.
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**CASES PENDING DECISION**

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<b>R03-9</b>	<u>In the Matter of: Noise Rule Update: Amendments to 35 Ill. Adm. Code 901</u> – Pre-hearing Opinion and Order	R, Noise
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<b>PCB 03-43</b>	<u>Landfill 33, LTD. v. Effingham County Board and Sutter Sanitation Services; Stock &amp; Company, L.L.C. v. Effingham County Board</u>	P-C-F-S-R
<b>PCB 03-52</b> (Cons.)	<u>and Sutter Sanitation Services (due 2/20)</u>	3d Party

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**ADJOURNMENT**

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Moved and seconded, by a vote of 7-0, Chairman Johnson 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 February 20, 2003 by a vote of.

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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board