

ILLINOIS POLLUTION CONTROL BOARD

DRAFT MEETING MINUTES



December 18, 2003
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 to the meeting. Chairman Novak directed the Clerk of the Board to poll each member for their vote on each of the orders presented for adoption.

ROLL CALL

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

APPROVAL OF MINUTES

Minutes of the December 4, 2003 meeting were approved by a vote of 5-0.

RULEMAKINGS

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| R03-11 | <u>In the Matter of: Site-Specific Rule for City of Effingham Treatment Plant Fluoride Discharge, 35 Ill. Adm. Code 304.233 –</u>
The Board adopted a final opinion and order granting this request for a rulemaking to amend the Board’s water pollution control regulations. | 5-0
R, Water |
| R04-3 | <u>In the Matter of: SDWA Update, USEPA Amendments (January 1, 2003 through June 30, 2003) –</u> The Board adopted a proposal for public comment in this “identical-in-substance” rulemaking to amend the Board’s public water supply regulations. | 5-0
R, PWS |
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R04-10	<u>In the Matter of: Clean-Up Amendments to 35 Ill. Adm. Code Part 214</u> – The Board granted petitioner’s motion to dismiss its proposal to amend the Board clean air regulations. But, the Board stated that it would soon open a docket for its own proposal to correct errors in formulas in Part 214.	5-0 R, Air
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ADJUSTED STANDARDS

AS 03-4	<u>In the Matter of: Petition of Argonne National Laboratory for an Adjusted Standard from 35 Ill. Adm. Code 218.182</u> – The Board granted this DuPage County petitioner an adjusted standard, with conditions, from volatile organic material emission requirements.	5-0 Air
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AS 04-1	<u>In the Matter of: Petition of Crownline Boats, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 215.301</u> – Pending receipt of the certificate of publication, the Board held this Hancock County facility’s petition for an adjusted standard from the Board’s air pollution control regulations.	Air
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ADMINISTRATIVE CITATIONS

AC 04-18	<u>IEPA v. Luther Coleman</u> – The Board accepted for hearing this petition for review of an administrative citation against this Saline County respondent.	5-0
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AC 04-19	<u>IEPA v. Christopher Coleman</u> – The Board accepted for hearing this petition for review of an administrative citation against this Union County respondent.	5-0
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AC 04-20	<u>IEPA v. Jerry Summers</u> – The Board found that this Fayette County respondent violated Section 21(p)(1) and (7) of the Act (415 ILCS 5/21(p)(1), (3) (2002)) and ordered respondent to pay a civil penalty of \$3,000.	5-0
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AC 04-21 IEPA v. RCS Inc., Jay Ross, and Terry Robbins – The Board found that these Jersey County respondents violated Section 21(o)(5) of the Act (415 ILCS 5/21(o)(5) (2002)) and ordered respondents to pay a civil penalty of \$500. 5-0

AC 04-28 IEPA v. American Disposal Services of Illinois, Inc. and David Bryant – The Board accepted an administrative citation against these Livingston County respondents.

ADJUDICATORY CASES

Decisions

PCB 02-63 People of the State of Illinois v. MII, Inc. – In this air enforcement action concerning a Morgan 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$50,000 and to cease and desist from further violations. 5-0
A-E

PCB 03-118 Dalee Oil Company v. IEPA – The Board affirmed the respondent’s decisions to deny reimbursement for nearly \$19,400 in unreasonable cost in this consolidated appeal concerning a facility located in Washington County. 5-0
PCB 03-119 UST
PCB 03-150 Appeal
Cons.

PCB 03-126 Mick’s Garage v. IEPA – The Board affirmed the respondent’s January 10, 2003 determination that a \$50,000 deductible applied in this appeal concerning a facility located in Madison County. 5-0
UST
Appeal

PCB 04-6	<u>People of the State of Illinois v. Valley Run Stone</u> – In this air enforcement action concerning a Kendall 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$24,500 and to cease and desist from further violations.	5-0 A-E
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Motions and Other Matters

PCB 97-119	<u>People of the State of Illinois v. G&M Total, Inc., George Papas individually and as president of G&M Total, Inc.</u> – No action taken.	L-E
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PCB 97-193	<u>People of the State of Illinois v. Community Landfill Company, Inc.</u> – No action taken.	L-E
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PCB 98-148	<u>Briggs Industries, Inc. v. Loren West and Abingdon Salvage Company, Inc.</u> – No action taken.	L-E
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PCB 99-19	<u>Karen & Anthony Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities</u> – No action taken.	A-E
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PCB 99-187	<u>Gina Pattermann v. Broughton Trucking and Materials, Inc.</u> – No action taken.	A&N-E
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PCB 00-28	<u>Beelman Truck Company v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Madison County facility.	5-0 UST Appeal
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PCB 01-7	<u>People of the State of Illinois v. QC Finishers, Inc.</u> – No action taken.	A-E
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PCB 01-46	<u>XCTC Limited Partnership v. IEPA; Georgia-Pacific Tissue, L.L.C.</u>	P-A, Air
PCB 01-51	<u>v. IEPA</u> – No action taken.	
Cons.		
PCB 01-173	<u>Cole Taylor Bank, not individually, but solely as trustee under a certain Illinois land trust known as trust 40323; as successor trustee to Michigan Avenue National Bank of Chicago, under trust 1904 v. Rowe Industries, Inc. successor to Coleman Cable and Wire Company, and Chapco Carton Company</u> – The Board granted the parties’ joint motion for dismissal of this citizen’s land enforcement action involving a Cook County facility.	5-0 Citizens L-E
PCB 02-1	<u>People of the State of Illinois v. Stein Steel Mill Services, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Madison County facility, the Board ordered publication of the required newspaper notice.	5-0 A-E
PCB 02-77	<u>People of the State of Illinois v. Millenium Recycling & Solid Waste Consultants, Inc., Sherri Clementi individually and as President of Millenium Recycling & Solid Waste Consultants, Inc., and Michael Lorence individually</u> – No action taken.	L-E
PCB 02-162	<u>People of the State of Illinois v. Fox Valley Dry Wall, Inc.</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action involving a Kane County facility, the Board ordered publication of the required newspaper notice.	5-0 L-E
PCB 02-164	<u>Barbara Stuart and Ronald Stuart v. Franklin Fisher and Phyllis Fisher</u> – No action taken.	Citizens N-E
PCB 02-213	<u>People of the State of Illinois v. Action Athletic Equipment, Inc.</u> – The Board entered an order amending the payment provisions in its December 4, 2003 order.	5-0 A-E

PCB 03-22	<u>People of the State of Illinois v. Saint-Gobain Containers, Inc.</u> – No action taken.	A-E
PCB 03-214	<u>Illinois Ayers Oil Company v. IEPA</u> – The Board granted petitioner’s motion for interlocutory appeal and affirmed the December 2, 2003 hearing officer order denying petitioner’s motion to compel discovery.	4-1 Johnson dissented UST Appeal
PCB 03-230	<u>Catholic Bishop of Chicago 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 03-235	<u>United Disposal of Bradley, Inc. and Municipal Trust & Savings Bank as Trustee Under Trust 0799 v. IEPA</u> – No action taken.	P-A, Land
PCB 04-10	<u>Illinois State Toll Highway Authority (Belvidere North CACR) v. IEPA</u> – No action taken.	UST Appeal
PCB 04-11	<u>Illinois State Toll Highway Authority (Belvidere North CAP) v. IEPA</u> – No action taken.	UST Appeal
PCB 04-12	<u>Teresa L. Shepro, as Trustee of the Justice W. Shepro Trust, and Teresa L. Shepro and Frank Wiemerslage, as beneficiaries under Trust No. 898, of the Chicago Trust Company v. Newby Oil Company, David E. Tripp and Janice Tripp</u> – No action taken.	Citizens L&W-E
PCB 04-14	<u>McDonald’s Corporation v. IEPA</u> – No action taken.	UST Appeal
PCB 04-25	<u>Gary Svacina 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 04-31	<u>Broadus Oil v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a LaSalle County facility.	5-0 UST Appeal
PCB 04-32	<u>Roy Strom Building 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 Lake County facility.	5-0 UST Appeal
PCB 04-33	<u>Byron Sandberg v. City of Kankakee, Illinois City Council and Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; Waste Management of Illinois v. City of Kankakee, Illinois City Council and Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.; County of Kankakee, Illinois and Edward D. Smith, Kankakee County States Attorney v. City of Kankakee, Illinois City Council and Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C.</u> – The Board denied the County of Kankakee’s motion to disqualify Attorney Claire Manning from representing Town and Country Utilities, Inc. as moot. No other action was taken on pending motions.	5-0
PCB 04-34		P-C-F-S-R
PCB 04-35		3d Party
PCB 04-64	<u>McLean County School District No. 5 v. IEPA</u> – The Board granted petitioner’s motion for dismissal of its request for a water well setback exception.	5-0 WWS
PCB 04-68	<u>Martin Oil Marketing, Ltd. v. IEPA</u> – No action taken.	UST Appeal
PCB 04-69	<u>Republic Bank of Chicago as Trustee of Trust #2234, Aristotle Halikias, Lena Halikias, Michael Halikias, Nikolas Halikias, Noula Halikias, and Patricia Halikias as beneficiaries of Trust #2234 v. Sunoco, Inc. (R&M)</u> – The Board granted attorney Joseph Freudenberg’s motion requesting permission to appear <i>pro hac vice</i> on behalf of respondent and respondent’s motion for extension of time to respond to the complaint until February 13, 2004.	4-0 Melas abstained Citizens UST Appeal

PCB 04-75	<u>Mate Technologies, Inc. v. F.I.C. America Corporation</u> – No action taken.	Citizens L-E
PCB 04-79	<u>Bonita Saxbury and Richard Saxbury v. Archer Daniels Midland</u> – The Board found that the alleged violations in the complaint were neither duplicative nor frivolous and accepted for hearing this matter involving a Pike County facility.	5-0 Citizens N-E
PCB 04-83	<u>Wei Enterprises v. IEPA</u> – The Board accepted for hearing this amended petition for review in response to the Board’s November 20, 2003 order on behalf of a St. Clair County facility.	5-0 UST Appeal
PCB 04-88	<u>Des Plaines River Watershed Alliance, Livable Communities Alliance, Prairie Rivers Network, and Sierra Club v. IEPA</u> – The Board accepted for hearing this third party appeal involving a facility located in the Village of New Lenox, Will County.	5-0 P-A, NPDES
PCB 04-89	<u>Russell Oil 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 Saline County facility.	5-0 UST Appeal 90-Day Ext.
PCB 04-90	<u>A&R, 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 Cook County facility.	5-0 UST Appeal 90-Day Ext.
PCB 04-91	<u>Thomeczek 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 Randolph County facility.	5-0 UST Appeal 90-Day Ext.

PCB 04-92	<u>Sather Enterprises, Lt. V. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a DeWitt County facility.	5-0 UST Appeal
PCB 04-93	<u>Martin Oil Marketing, Ltd. v. IEPA</u> – The Board ordered petitioner file amended petition curing deficiencies and accompanied by an attorneys appearance, within 30 days, or this matter would be subject to dismissal.	5-0 UST Appeal
PCB 04-94	<u>People of the State of Illinois v. Hauck Homes, Inc. d/b/a Rock River Estates Mobile Home Park</u> – The Board accepted for hearing this water enforcement action involving a site located in Lee County.	5-0 W-E
PCB 04-95	<u>Arclar Company, LLC (Coal Preparation Facility - Willow Lake) (Property Identification Number 09-01-300-001-0080) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Arclar Company, LLC located in Saline County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C
PCB 04-96	<u>Black Beauty Coal Company (Coal Preparation Facility - Riola Portal) (Property Identification Number 27-33-200-004-8060) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Black Beauty Coal Company located in Vermilion County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C

PCB 04-97	<u>Black Beauty Coal Company (Coal Preparation Facility - Vermilion Grove Portal) (Property Identification Number 32-13-100-014-0060) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Black Beauty Coal Company located in Vermilion County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2002)).	5-0 T-C
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CASES PENDING DECISION

PCB 01-167	<u>People of the State of Illinois v. ESG Watts, Inc. (Taylor Ridge Landfill)</u>	A,L,W-E
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OTHER ITEMS

The Chairman’s Motion to schedule a Deliberative Session, closed under the exception in Section 120/2(b)(4), for Wednesday, January 8, 2004 was adopted by a vote of 5-0.

Approval of 2004 Board Meeting Locations and Deliberative Session Dates

Board Meetings:

January 8 - Videoconference	July 8 - Videoconference
January 22 - Chicago	July 22 - Chicago
February 5 - Videoconference	August 5 - Springfield
February 19 – Chicago	August 19 - Chicago
March 4 - Springfield	September 2 - Videoconference
March 18 - Chicago	September 16 - Chicago
April 1 - Videoconference	October 7 - Springfield
April 15 - Chicago	October 21 - Chicago
May 6 - Springfield	November 4 - Videoconference
May 20 - Chicago	November 18 - Chicago
June 3 - Videoconference	December 2 - Videoconference
June 17 - Chicago	December 16 - Chicago

Deliberative Sessions:

January 15	July 15
January 29	July 29

February 11 (Wednesday)
February 26

August 12
August 26

March 11
March 25

September 9
September 23

April 8
April 22

October 14
October 28

May 13
May 27

November 10 (Wednesday)
November 24 (Wednesday)

June 10
June 24

December 9
December 23

The Chairman's motion to approve the Calendar Year 2004 Board Meeting Locations and Deliberative Sessions dates was adopted by a vote of 5-0.

Chairman Novak introduced and welcomed his new attorney assistant Tim Fox.

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Novak adjourned the meeting at 11:45 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on January 8, 2004, by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board