

ILLINOIS POLLUTION CONTROL BOARD

DRAFT MEETING MINUTES



SEPTEMBER 16, 2004 CHICAGO OFFICE
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.

ROLL CALL

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

APPROVAL OF MINUTES

Minutes of the September 2, 2004 meeting were approved by a vote of 5-0.

RULEMAKINGS

R05-3	<u>In the Matter of: UST Update, USEPA Regulations (January 1, 2004 through June 30, 2004)</u> – 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 during the update period of January 1, 2004 through June 30, 2004.	5-0 R, Land
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R05-5 In the Matter of: Exemptions from the Definition of VOM Update, USEPA Regulations (January 1, 2004 through June 30, 2004) - 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 during the update period of January 1, 2004 through June 30, 2004.

5-0
R, Air

R05-7 In the Matter of: UIC Update, USEPA Regulations (January 1, 2004 through June 30, 2004) - 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 January 1, 2004 through June 30, 2004.

5-0
R, Land

ADJUSTED STANDARDS

AS 04-2 In the Matter of: Petition of Jo'Lyn Corporation and Falcon Waste and Recycling for an Adjusted Standard from 35 Ill. Adm. Code Part 807 or in the Alternative A Finding of Inapplicability – No action taken.

Land

AS 04-3 In the Matter of : Petition by Hayden Wrecking Corporation for an Adjusted Standard from 35 Ill. Adm. Code 620.410(a) – No action taken.

Water

ADMINISTRATIVE CITATIONS

AC 04-13 City of Chicago Department of Environment v. Eddie Greer – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(1) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1) and (p)(7) (2002)) and assessing a penalty of \$3,000. The Board ordered the Clerk of the Board and the Environmental Protection Agency to file within 14 days a statement of their hearing costs and allowed respondent to file a response by October 14, 2004.

5-0

AC 05-13	<u>IEPA v. Roy Bruce</u> – The Board found that this Jefferson County respondent violated Sections 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2002)), and ordered respondent to pay a civil penalty of \$3,000.	5-0
AC 05-17	<u>IEPA v. Roger Miller and Joan Kay Miller</u> – The Board accepted for hearing this petition for review of an administrative citation against these Cumberland County respondents.	5-0
AC 05-22	<u>County of Sangamon v. James Withers</u> – The Board accepted an administrative citation against this Sangamon County respondent.	Novak
AC 05-23	<u>IEPA v. Phillip Hamann</u> - The Board accepted an administrative citation against this Mason County respondent.	Novak
AC 05-24	<u>City of Chicago Department of Environment v. Richland Group Enterprises, Inc.</u> – The Board accepted an administrative citation against this Cook County respondent.	Novak
AC 05-25	<u>County of Montgomery v. Ronald F. Simmons</u> - The Board accepted an administrative citation against this Montgomery County respondent.	Novak

ADJUDICATORY CASES

Decisions

PCB 91-17	<u>Noveon, Inc. f/k/a BF Goodrich Corporation (Henry Facility) v. IEPA</u> – The Board affirmed the National Pollutant Discharge Elimination System permit as issued by respondent on December 28, 1990.	5-0 P-A, Land
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PCB 99-120	<u>People of the State of Illinois v. Wood River Refining Company</u> – 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$126,000 and to cease and desist from further violations.	5-0 A-E
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PCB 02-164	<u>Barbara and Ronald Stuart v. Franklin Fisher and Phyllis Fisher</u> – The Board found that only respondent Franklin Fisher violated the following provisions of the Environmental Protection Act (Act) and the Board’s regulations: Section 24 of the Act (415 ILCS 5/24) and 35 Ill. Adm. Code 900.102 at respondent’s facility located in Will County. The Board directed Franklin Fisher to cease and desist from further violation of the Environmental Protection Act and Board regulations rules by ceasing and desisting the use of the propane cannons on the property.	3-1 Johnson dissented Novak abstained Citizens N-E
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Motions and Other Matters

PCB 97-2	<u>People of the State of Illinois v. Jersey Sanitation Corporation</u> – No action taken.	L&W-E
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PCB 97-119	<u>People of the State of Illinois v. G & M Total, Inc. and George Papas, individually and as President of G & M Total, Inc.</u> – No action taken.	L-E
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PCB 00-163	<u>David and Jacquelyn McDonough v. Gary Robke</u> – No action taken.	Citizens N-E
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PCB 01-102	<u>Cassen and Sons, Inc. v. IEPA</u> – No action taken.	UST Appeal
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PCB 02-177	<u>People of the State of Illinois v. John Prior d/b/a Prior Oil Company and James Mezo d/b/a Mezo Oil Company</u> – The Board granted respondent John Prior’s motion for stay of final order entered July 8, 2004, pending the outcome of his petition for direct review in Fifth District Appellate Court.	5-0 L, W-E
PCB 04-15	<u>People of the State of Illinois v. Atkinson Grain & Fertilizer, Inc.</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 involving a Henry County facility, the Board ordered publication of the required newspaper notice.	5-0 W-E
PCB 04-48	<u>Village of Robbins and Allied Waste Transportation, Inc. v. IEPA</u> – The Board denied the Cook County petitioners’ motion for summary judgment, and directed the matter to hearing on all issues.	5-0 P-A, Land
PCB 04-79	<u>Bonita Saxbury and Richard Saxbury v. Archer Daniels Midland Company</u> – No action taken.	N-E
PCB 04-105	<u>Webb & Sons, Inc. v. IEPA</u> – The Board granted petitioner’s motion for voluntary dismissal of this underground storage tank appeal involving a Coles County facility.	5-0 UST Appeal
PCB 04-106	<u>People of the State of Illinois v. Thomas Gray an individual, Steve Whyte an individual, Gladys Whyte an individual, Leona Childress an individual, and William McCoy an individual</u> – No action taken.	L-E
PCB 04-113	<u>Ethyl Petroleum Additives, Inc. v. IEPA</u> – No action taken.	P-A, Air
PCB 04-164	<u>People of the State of Illinois v. The Fields of Long Grove Home Owner’s Association</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 Lake County facility, the Board ordered publication of the required newspaper notice.	5-0 PWS-E

PCB 04-185	<u>Midwest Generation EME, Inc. v. IEPA</u> – No action taken.	T-S Appeal
PCB 04-187	<u>Sutter Sanitation, Inc. and Lavonne Haker v. IEPA</u> – The Board denied the motion to intervene of the Ruffner family, Mr. Stock, and Stock & Co. The Board also granted in part and denied in part the respondent’s motion to strike, striking Exhibits 1-7 of, and references to those exhibits in, petitioners’ motion for partial summary judgment. Finally, the Board granted petitioners’ motion for partial summary judgment, denied the respondent’s motion for partial summary judgment, and directed the parties to hearing on the remaining two grounds for permit denial, for this Effingham County facility.	5-0 P-A, Land
PCB 04-207	<u>People of the State of Illinois v. Edward Pruiam an individual, and Robert Pruiam an individual</u> – No action taken.	L-E
PCB 04-215 PCB 04-216	<u>Commonwealth Edison Company v. IEPA</u> – No action taken.	T-S Appeal
PCB 04-217	<u>Telzrow 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 Calhoun County facility.	5-0 UST Appeal
PCB 04-219	<u>Commonwealth Edison 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 La Salle County facility.	5-0 UST Appeal
PCB 04-220	<u>Jim’s Mobil 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 Madison County facility.	5-0 UST Appeal

PCB 05-1	<u>Janis Rosaver and Batavia Illinois Residents Opposed to Siting of Waste Transfer Station v. City of Batavia and Onyx Waste Services Midwest, Inc.</u> – No action taken.	P-C-F-S-R 3d Party
PCB 05-29	<u>Mather Investment Properties, L.L.C. v. Illinois State Trapshooters Association, Inc.</u> – No action taken.	Citizens Land-E
PCB 05-44	<u>People of the State of Illinois v. Roger Kuberski</u> – The Board accepted for hearing this water enforcement action involving a site located in Cook County.	5-0 W-E, NPDES
PCB 05-45	<u>United Parcel Service (Claim #1) 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 St. Clair County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-46	<u>United Parcel Service (Claim #3) 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 St. Clair County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-47	<u>United Parcel Service (Claim #2) 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 St. Clair County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-48	<u>Illinois Ayers Oil Company (Ayerco #7) 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 Cass County facility.	5-0 UST Appeal
PCB 05-49	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – The Board held	A&L-E

for a later duplicative/frivolous determination this citizen's enforcement action involving a Champaign County facility.

PCB 05-50	<u>L. Keller Oil Properties (Charleston) v. IEPA</u> – The Board accepted for hearing and this underground storage tank appeal involving a Cook County facility. The Board also granted petitioner's motion for expedited review.	5-0 UST Appeal
PCB 05-51	<u>People of the State of Illinois v. Randy Oldenberger d/b/a Environmental Health and Safety</u> – The Board accepted for hearing this air enforcement action involving a site located in Cook County.	5-0 A-E

CASES PENDING DECISION

OTHER ITEMS

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Novak adjourned at 11:25 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on October 7, 2004, by a vote of 4-0.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board