

ILLINOIS POLLUTION CONTROL BOARD

DRAFT MEETING MINUTES



DECEMBER 16, 2004 CHICAGO, ILLINOIS
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.

ROLL CALL

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

APPROVAL OF MINUTES

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

RULEMAKINGS

R05-2	<u>In the Matter of: RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2004 through June 30, 2004)</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
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R05-10	<u>In the Matter of: Bacteria (E-Coli) Water Quality Standard for Lake Michigan and Mississippi River, Proposed Amendments to 35 Ill. Adm. Code 302 and 303</u> – The Board accepted for hearing the Illinois Environmental Protection Agency’s November 8, 2004 proposal to amend the Board’s water quality regulations.	5-0 R, Water
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R05-12	<u>In the Matter of: RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (July 1, 2004 through December 31, 2004)</u> – The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of July 1, 2004 through December 31, 2004.	R, Land
R05-13	<u>In the Matter of: RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2004 through December 31, 2004)</u> - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of July 1, 2004 through December 31, 2004.	R, Land
R05-14	<u>In the Matter of: UST Update, USEPA Amendments (July 1, 2004 through December 31, 2004)</u> - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of July 1, 2004 through December 31, 2004.	R, Land
R05-15	<u>In the Matter of: Wastewater Pretreatment Update, USEPA Amendments (July 1, 2004 through December 31, 2004)</u> - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of July 1, 2004 through December 31, 2004.	R, Water
R05-16	<u>In the Matter of: Definition of VOM Update, USEPA Amendments (July 1, 2004 through December 31, 2004)</u> - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of July 1, 2004 through December 31, 2004.	R, Air
R05-17	<u>In the Matter of: SDWA Update, USEPA Amendments (July 1, 2004 through December 31, 2004)</u> - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of July 1, 2004 through December 31, 2004.	R, Water
R05-18	<u>In the Matter of: UIC Update, USEPA Amendments (July 1, 2004</u>	R, Land

through December 31, 2004) - The Board reserved this docket for a routine identical-in-substance update. The update includes any federal amendments which occurred during the period of July 1, 2004 through December 31, 2004.

ADJUSTED STANDARDS

AS 05-1 In the Matter of: Petition of SCA Tissue North America, L.L.C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(c) – No action taken. Air

ADMINISTRATIVE CITATIONS

AC 04-22 County of Vermilion, Illinois v. Village of Tilton – The Board entered an interim opinion and order finding respondent violated Sections 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(3) (2002)) and assessing a penalty of \$1,500. The Board ordered the Clerk of the Board and the County of Vermilion to file within 14 days a statement of hearing costs, supported by affidavit, with service on respondent. 5-0

AC 04-46 IEPA v. Christopher Coleman – The Board entered a final opinion and order requiring respondent to pay hearing costs of the Illinois Environmental Protection Agency and the Board in the amount of \$318.05 and a civil penalty of \$3,000. This order follows the Board's interim order of November 4, 2004, which found that this respondent had violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and (p)(7) (2002)) at his Union County facility. 5-0

AC 05-32 IEPA v. James A. Haas, Jr. – The Board dismissed the December 3, 2004 petition for review as untimely filed. The Board found that this Sangamon County respondent violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)), and ordered respondent to pay a civil penalty of \$3,000. 5-0

AC 05-42 IEPA v. Knox County Landfill Committee and Greg Ingle – The Board accepted an administrative citation against these Knox County respondents.

AC 05-43 County of Macon, Illinois v. David Beck – The Board accepted an administrative citation against this Macon County respondent.

ADJUDICATORY CASES

Decisions

PCB 04-224 People of the State of Illinois v. Heritage FS, Inc. – In this water enforcement action concerning a Kankakee 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 \$10,000 and to cease and desist from further violations. 5-0
W-E

PCB 05-75 People of the State of Illinois v. Dennis Elahi d/b/a Paramount Management and Construction Company – In this air 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) (2002)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$30,000 and to cease and desist from further violations. 5-0
A-E

Motions and Other Matters

PCB 96-98	<u>People of the State of Illinois v. Skokie Valley Asphalt Co., Inc., and Richard J. Frederick</u> – The Board denied complainant’s motion to void the Board’s October 21, 2004 order. The stay of the \$153,000 civil penalty imposed in the September 2, 2004 order will remain in effect until the Board issues a final order in this matter. In that final order, the Board will lift the stay, direct the respondents to pay the civil penalty and address the issue of attorney fees and costs. The respondents are hereby given until January 13, 2005 to respond to the complainant’s request for attorney fees and costs.	5-0 W-E
PCB 97-2	<u>People of the State of Illinois v. Jersey Sanitation Corporation</u> – No action taken.	L&W-E
PCB 00-104	<u>People of the State of Illinois v. The Highlands, L.L.C., Murphy Farms, Inc. a/k/a Murphy Family Farms, and Bion Technologies, Inc.</u> – No action taken.	A-E
PCB 02-115	<u>People of the State of Illinois v. Blue Ridge Construction Corporation</u> – The Board granted respondent’s motion to stay enforcement of monetary penalty pending the outcome of the appeal pending before the Appellate Court.	5-0 A&W-E
PCB 04-136	<u>People of the State of Illinois v. Cromwell-Phoenix, Inc.</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.	5-0 A-E
PCB 04-162	<u>People of the State of Illinois v. Asbestos Control and Environmental Services</u> – No action taken.	A-E

PCB 04-183	<u>Johnson Oil Company v. IEPA</u> – No action taken.	UST
PCB 04-190 (not cons.)		Appeal
PCB 04-185	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – No action taken.	T-S Appeal
PCB 04-215	<u>Commonwealth Edison Company v. IEPA</u>	T-S
PCB 04-216 (not cons.)	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – No action taken.	Appeal
PCB 05-29	<u>Mather Investment Properties, L.L.C. v. Illinois State Trapshooters Association, Inc.</u> – No action taken.	Citizens Land-E
PCB 05-45	<u>United Parcel Service (Claim #1) 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 St. Clair County facility.	5-0 UST Appeal
PCB 05-46	<u>United Parcel Service (Claim #3) 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 St. Clair County facility.	5-0 UST Appeal
PCB 05-47	<u>United Parcel Service (Claim #2) 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 St. Clair County facility.	5-0 UST Appeal
PCB 05-48	<u>Illinois Ayers Oil Co. v. IEPA</u> – No action taken.	UST Appeal

PCB 05-49	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – No action taken.	A&L-E
PCB 05-51	<u>People of the State of Illinois v. Randy Oldenberger d/b/a Environmental Health and Safety</u> – No action taken.	A-E
PCB 05-52	<u>People of the State of Illinois v. Safe Lock Self Storage 2, LLC</u> – The Board granted complainant’s motion and accepted the amended complaint in this water enforcement action involving a site located in St. Clair County. The Board ordered publication of the required newspaper notice upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement.	5-0 W-E
PCB 05-93	<u>York High Neighborhood Committee (a voluntary organization) Janet and Fred Hodge, Patricia and David Bennett, Sheila and Mike Trant, Joe Vosicky, Jean and Peter Conroy, Frank Soldano, Joseph Reamer, Elizabeth and Charles Laliberte v. Elmhurst Public Schools, District 205</u> – The Board held for a later duplicative/frivolous determination this citizens’ noise enforcement action involving a DuPage County facility.	Citizens N-E
PCB 05-101	<u>Mac’s Convenience Stores L.L.C. v. IEPA</u> – The Board ordered petitioner to file an amended petition to cure noted deficiencies by February 5, 2005, or this matter will be dismissed.	5-0 UST Appeal
PCB 05-104	<u>L&M Pork Farm, Inc. (Property Identification Number 14-01-300-005) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of L&M Pork Farm located in Woodford 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 05-105	<u>Burroughs AG Service, Inc.-Lostant (Property Identification Number 31-27-307-000) v. IEPA</u> – No action taken.	T-C
PCB 05-106	<u>Sunrise AG Services Company (Property Identification Number 09-11-200-002-0080) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Sunrise AG Services Company located in Mason 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 05-107	<u>Burroughs AG Service, Inc.-Wyoming (Property Identification Number 05-29-300-007) v. IEPA</u> – No action taken.	T-C
PCB 05-108	<u>William Breuer 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 Washington County facility.	5-0 UST Appeal 90-Day Ext.
PCB 05-109	<u>Paul Johnson, Inc. v. IEPA and City of Waterman, Illinois</u> – The Board accepted for hearing this water well setback request and granted the motion for expedited decision in this matter involving a DeKalb County facility.	5-0 WWS
PCB 05-110	<u>People of the State of Illinois v. J. McDaniel, Inc.</u> – The Board accepted for hearing this water enforcement action involving a site located in Vermilion County.	5-0 W-E

CASES PENDING DECISION

AS 04-3	<u>In the Matter of: Petition by Hayden Wrecking Corporation for an Adjusted Standard from 35 Ill. Adm. Code 620.410(a)</u>	Novak Water
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R05-1

In the Matter of: RCRA Subtitle D Update, USEPA Regulations
(January 1, 2004 through June 30, 2004) – Proposed Rule, Proposal
for Public Comment, Proposed Opinion and Order

Girard
R, Land

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Novak adjourned the meeting 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 January 6, 2005, by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board