

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



February 16, 2006 CHICAGO OFFICE
100 W. Randolph Street
Conference Room 9-040
11:00 A.M.

ANNOUNCEMENTS

Chairman Girard 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 February 2, 2006 meeting were approved, as corrected, by a vote of 4-0.

RULEMAKINGS

R04-21	<u>In the Matter of: Revisions to Radium Water Quality Standards: Proposed New 35 Ill. Adm. Code 302.307 and Amendments to 35 Ill. Adm. Code 302.207 and 302.525</u> – The Board adopted a final opinion and order in this rulemaking which amends the Board's water quality standards.	4-0 R, Water
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R04-22(A) In the Matter of: Proposed Amendments to Regulation of 4-0
R04-23(A) Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code R, Land
(cons.) 732); In the Matter of: Regulation of Petroleum Leaking
Underground Storage Tanks (Proposed New 35 Ill. Adm. Code
734) – The Board adopted a final opinion and order in this
rulemaking which amends the Board’s land pollution control
regulations.

R05-9 In the Matter of Setback Zone for City of Marquette Heights 4-0
Community Water Supply, New 35 Ill. Adm. Code 618 – The R, PWS
Board adopted a second notice opinion and order in this site-
specific rulemaking to amend the Board’s public water supply
regulations, as requested.

R06-24 In the Matter of: Revisions to Water Quality Standards for Total R, Water
Dissolved Solids in the Lower Des Plaines River for Exxon Mobil
Oil Corporation: Proposed 35 Ill. Adm. Code 303.445 – No action
taken.

ADJUSTED STANDARDS

AS 06-2 In the Matter of: Petition of BP Products North America, Inc. for Air
an Adjusted Standard Pursuant to 35 Ill. Adm. Code 721.122 – No
action taken.

ADMINISTRATIVE CITATIONS

AC 04-77 IEPA v. Frank Bencie – The Board entered an interim opinion and 4-0
order finding respondent violated Sections 21(p)(1) and (p)(4) of
the Act (415 ILCS 5/21(p)(1), (p)(4) (2004)) 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 hearing costs, supported by affidavit, with service on
respondent. Respondent may respond to the cost statement within
14 days of service.

AC 05-8 IEPA v. Ted Harrison and Gerald S. Gill – No action taken.

AC 06-20 IEPA v. Georgia Shank and Steve Shank – The Board directed respondent Georgia Shank to file an amended petition for review specifying the grounds for appeal within 30 days, or the Board will dismiss this matter. The Board noted that Steve Shank had not filed a petition for review. 4-0

AC 06-21 County of Jackson v. Dan Kimmel – The Board directed respondent to file an amended petition for review specifying the grounds for appeal within 30 days, or the Board will dismiss this matter. 4-0

AC 06-23 IEPA v. Harold Graves – The Board accepted an administrative citation against this Shelby County respondent.

AC 06-24 IEPA v. City of Freeport and Ryan Wilson – The Board accepted an administrative citation against these Stephenson County respondents.

AC 06-25 County of Perry v. Ida Haberman – The Board accepted an administrative citation against this Perry County respondent.

ADJUDICATORY CASES

Decisions

PCB 04-201 People of the State of Illinois v. Southern Illinois Power Cooperative – In this air enforcement action concerning a Williamson 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) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$48,000, and to cease and desist from further violations. 4-0
A-E

PCB 05-201 People of the State of Illinois v. Illinois Tool Works, Inc. – 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) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$17,500, and to cease and desist from further violations. 4-0
A-E

PCB 05-207 People of the State of Illinois v. Precision Twist Drill Co. – In this air enforcement action concerning a McHenry 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) (2004)), accepted a stipulation and settlement agreement, and ordered the respondent to pay a total civil penalty of \$30,500, and to cease and desist from further violations. 4-0
A-E

Motions and Other Matters

PCB 97-193 People of the State of Illinois v. Community Landfill Company, Inc.; **PCB 04-207** People of the State of Illinois v. Edward Pruum and Robert Pruum – No action taken. L-E
(cons.)

PCB 03-191 People of the State of Illinois v. Community Landfill Company, Inc. and the City of Morris – The Board granted Community Landfill Corporation’s motion to strike the requests for an interim remedy from the complainant’s motion for summary judgment. The Board granted the complainant’s motion for summary judgment in part, finding that Community Landfill Corporation and the City of Morris violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2004)), and Sections 811.700(f) and 811.712(b) of the Board’s regulations. 35 Ill. Adm. Code 811.700(f), 811.712(b). Finally, the Board denied the City of Morris’ counter motion for summary judgment and directed the parties to hearing on the specific issue of remedy. 4-0
L-E

PCB 04-7	<u>People of the State of Illinois v. 4832 S. Vincennes, L.P. and Batteast Construction Company, Inc.</u> – No action taken.	A-E
PCB 04-47	<u>Saint-Gobain Containers, Inc. v. IEPA</u> – The Board granted petitioner’s motion to stay proceedings until the Board orders otherwise..	4-0 P-A, Air
PCB 04-137	<u>People of the State of Illinois v. Robinson Carbon, Inc.</u> – The Board granted complainant’s motion for leave to file and accepted for hearing a first amended complaint.	4-0 A-E
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> – No action taken.	T-S Appeal
PCB 04-216	<u>Midwest Generation EME, L.L.C. v. IEPA</u> – No action taken.	T-S Appeal
PCB 05-49	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – No action taken.	A&L-E
PCB 05-77	<u>Wiseman/PJ’s Shortstop v. IEPA</u> – The Board granted this Edgar County facility’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
PCB 05-91	<u>People of the State of Illinois v. Clean Harbors 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 air enforcement action involving a Cook County facility, the Board ordered publication of the required newspaper notice.	4-0 A-E
PCB 05-97	<u>Henson Oil Co. v. EPA</u> – The Board granted this McLean County facility’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal

PCB 05-124	<u>Mac's Convenience Stores L.L.C. v. IEPA</u> – The Board granted this Sangamon County facility's motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
PCB 05-139	<u>People of the State of Illinois v. Bath Incorporated</u> – No action taken.	L-E
PCB 05-157	<u>Grand Pier Center L.L.C. American International Specialty Lines Insurance Co. as subrogee of Grand Pier Center L.L.C. v. River East L.L.C., Chicago Dock and Canal Trust, Chicago Dock and Canal Company, Kerr-McGee Chemical L.L.C.</u> – No action taken.	Citizens L-E
PCB 05-220	<u>Kenneth E. Medema, Jr. v. TNT Logistics North America</u> – No action taken.	Citizens N-E
PCB 06-1	<u>Robert F. Kassela, Jr. v. TNT Logistics North America</u> - No action taken.	Citizens N-E
PCB 06-33	<u>People of the State of Illinois v. J&S Companies, Inc. and First Choice Construction, Inc.</u> – No action taken.	L-E
PCB 06-45	<u>People of the State of Illinois v. Ecolab, Inc. and Charles A. Winslett</u> – Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land and water enforcement action involving a Tazewell County facility, the Board ordered publication of the required newspaper notice.	4-0 L&W-E
PCB 06-51	<u>People of the State of Illinois v. CSX Transportation, Inc.</u> – No action taken.	A, L&W
PCB 06-53	<u>C&F Packing Company, Inc. v. IEPA and Lake County</u> – No action taken.	W-V

PCB 06-56 Midwest Generation, L.L.C., Crawford Generating Station v. IEPA 4-0
– The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Cook County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. P-A, Air

PCB 06-57 Midwest Generation, L.L.C., Fisk Generating Station v. IEPA – 4-0
The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Cook County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. P-A, Air

PCB 06-58 Midwest Generation, L.L.C., Joliet Generating Station v. IEPA – 4-0
The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Will County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. P-A, Air

PCB 06-59 Midwest Generation, L.L.C., Powerton Generating Station v. IEPA 4-0
– The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Tazewell County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. P-A, Air

PCB 06-60	<p><u>Midwest Generation, L.L.C., Will County Generating Station v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act ((5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Will County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-61	<p><u>Southern Illinois Power Cooperative v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Williamson County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-62	<p><u>Kincaid Generation, L.L.C. v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Christian County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-63	<p><u>Dynegy Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Randolph County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air

PCB 06-64 Ameren Energy Generating Company, Coffeen Power Station v. IEPA – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Montgomery County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. 4-0
P-A, Air

PCB 06-65 Electric Energy, Incorporated v. IEPA – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Massac County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. 4-0
P-A, Air

PCB 06-66 AmerenEnergy Resources Generating Company, Duck Creek Power Station v. IEPA – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Fulton County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. 4-0
P-A, Air

PCB 06-67 AmerenEnergy Resources Generating Company, Edwards Power Station v. IEPA – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Peoria County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. 4-0
P-A, Air

PCB 06-68 Ameren Energy Generating Company, Newton Power Station v. IEPA – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Jasper County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. 4-0
P-A, Air

PCB 06-69 Ameren Energy Generating Company, Meredosia Power Station v. IEPA – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Morgan County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. 4-0
P-A, Air

PCB 06-70 Ameren Energy Generating Company, Hutsonville Power Station v. IEPA – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Crawford County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. 4-0
P-A, Air

PCB 06-71 Dynegy Midwest Generation, Inc. (Havana Power Station) v. IEPA – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Mason County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties. 4-0
P-A, Air

PCB 06-72	<p><u>Dynergy Midwest Generation, Inc. (Hennepin Power Station) v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Putman County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-73	<p><u>Dynergy Midwest Generation, Inc. (Vermilion Power Station) v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Vermilion County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-74	<p><u>Dynergy Midwest Generation, Inc. (Wood River Power Station) v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Madison County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-75	<p><u>The City of Springfield v. IEPA</u> – The Board found that the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) automatic stay provision applies in this CAAPP permit appeal involving a Sangamon County facility. Respondent’s motion for leave to file the administrative record on compact disks was granted in part. The Board granted the respondent’s motion for additional time to file the record and directed the hearing officer to set the record-filing deadline after consulting with the parties.</p>	4-0 P-A, Air
PCB 06-82	<p><u>People of the State of Illinois v. Barger Engineering, Inc.</u> – No action taken.</p>	W-E

PCB 06-124	<u>Prairie Rivers Network and Sierra Club v. IEPA and Prairie State Generating Company, L.L.C.; American Bottom Conservancy and Dale Wojtkowski v. IEPA and Prairie State Generating Company, L.L.C.</u> – No action taken.	P-A, Water
PCB 06-127		

PCB 06-135	<u>Environmental Protection Industries, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a DuPage County facility.	3-0 Melas abstained UST Appeal
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PCB 06-136	<u>People of the State of Illinois v. D&L Landfill, Inc.</u> – The Board accepted for hearing this land enforcement action involving a site located in Bond County.	4-0 L-E
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PCB 06-137	<u>City of Springfield, Illinois v. IEPA</u> – No action taken.	
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CASES PENDING DECISION

R03-9	<u>In the Matter of: Proposed New and Updated Rules for Measurement and Numerical Sound Emissions Standards Amendments to 35 Ill. Adm. Code 901 and 910</u> – Adopted Rule, Final Order, Opinion and Order	R, Noise
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R04-12 R04-20 (cons.)	<u>In the Matter of: Technical Correction to Formulas in 35 Ill. Adm. Code 214 “Sulfur Limitations”;</u> <u>In the Matter of: Clean-Up Part III, Amendments to 35 Ill. Adm. Code Part 211, 218, and 219</u> – Proposed Rule, Second Notice, Opinion and Order	R, Air
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R05-19 In the Matter of: Proposed Amendments to Exemptions from State Permitting Requirements (35 Ill. Adm. Code 201.146) – Adopted Rule, Final Order, Opinion and Order R, Air

R05-20 In the Matter of: Proposed Amendments From Permitting Requirements for Plastic Injection Molding Operations Code 201.146 – Adopted Rule, Final Order, Opinion and Order R, Air

OTHER ITEMS

ADJOURNMENT

Moved and seconded, by a vote of 4-0, Chairman Girard adjourned the meeting at 11:30 a.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on March 2, 2006, by a vote of.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board