

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



September 7, 2006
Chicago/Springfield Videoconference
CHICAGO OFFICE - 100 W. Randolph Street
Videoconference Room 11-512
And
SPRINGFIELD OFFICE – 1021 N. Grand Avenue East
Oliver Holmes Conference Room 2012 N – Second Floor
11:00 A.M.

ANNOUNCEMENTS

Chairman Girard announced that the meeting would start at 11:30 am due to a member's delay in traffic. After calling the meeting to order at 11:30 am, Chairman Girard apologized for the delay and welcomed members of the public and staff.

ROLL CALL

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

APPROVAL OF MINUTES

Minutes of the August 17, 2006 meeting were approved by a vote of 4-0.

RULEMAKINGS

R06-10	<u>In the Matter of: Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board's land pollution control regulations.	4-0 R, Land
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R06-16 In the Matter of: UIC Update, USEPA Amendments (July 1, 2005 4-0
R06-17 through December 31, 2005); In the Matter of: RCRA Subtitle D R, Land
R06-18 Update, USEPA Amendments (July 1, 2005 through December 31,
(cons.) 2005); In the Matter of: RCRA Subtitle C Update, USEPA
Amendments (July 1, 2005 through December 31, 2005 and March
23, 2006) – The Board on the its own motion again extended the
decision deadline due to the nature of the public comments received
until December 6, 2006.

R06-23 In the Matter of: Standards and Requirements for Potable Water 4-0
Well Surveys and for Community Relations Activities Performed in R, PWS
Conjunction with Agency Notices of Threats from Contamination
Under P.A. 94-314: New 35 Ill. Adm. Code Part 1600 – The Board
timely adopted a final opinion and order in this statutorily-required
rulemaking which amends the Board’s public water supply
regulations.

R06-25 In the Matter of: Proposed New 35 Ill. Adm. Code 225 Control of 4-0
Emissions From Large Combustion Sources (Mercury) – The Board R, Air
denied Midwest Generation L.L.C.’s motion to hold additional
hearings.

ADJUSTED STANDARDS

AS 07-1 In the Matter of: Petition of BP Products North America Inc. for an 4-0
Adjusted Standard Pursuant to 35 Ill. Adm. Code 720.122 – The Land
Board found that BP satisfied jurisdictional requirement of
providing notice of its petition for an adjusted standard; granted
BP’s motion to file reduced copies of petition and to incorporate
appendices A through J from docket AS 06-02 into this petition;
and noted that the Board continues to review petition.

ADMINISTRATIVE CITATIONS

AC 06-20 IEPA v. Georgia Shank and Steve Shank The Board granted 4-0
complainant’s motion to withdraw this administrative citation as to
respondent Georgia Shank. The Board found that Steve Shank
violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS
5/21(p)(1), (p)(3), and (p)(7) (2004)), and ordered respondent to

pay a civil penalty of \$4,500.

AC 06-30 IEPA v. Rick Linnabury – In response to a joint stipulation and settlement agreement in this administrative citation action involving a Douglas County facility, the Board found that respondent had violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2004)) and ordered him to pay a civil penalty of \$1,500. The Board also granted the parties’ joint motion to dismiss respondent’s petition for review, as well as the violation of 415 ILCS 5/21(p) (7) (2004) alleged in the administrative citation. 4-0

AC 07-2 IEPA v. Robert and Wilma Adams – The Board accepted for hearing this petition for review of an administrative citation against these Woodford County respondents. 4-0

AC 07-4 IEPA v. Frank Wilhelm – The Board accepted for hearing this petition for review of an administrative citation against this Macon County respondent. 4-0

AC 07-9 IEPA v. Charles F. Kinsel – The Board accepted an administrative citation against this Fulton County respondent.

AC 07-10 IEPA v. Michael Rickard – The Board accepted an administrative citation against this Mason County respondent.

AC 07-11 County of Cole v. Veolia ES Orchard Hills Landfill, Inc. – The Board accepted an administrative citation against this Cole County respondent.

AC 07-12 IEPA v. Francis E. Morris – The Board accepted an administrative citation against this Gallatin County respondent.

ADJUDICATORY CASES

Decisions

PCB 02-79	<u>People of the State of Illinois v. Walter F. Deemie d/b/a River City Demolition</u> – In this air enforcement action concerning a Sangamon 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)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$8,000, and to cease and desist from further violations.	4-0 A-E
PCB 04-107	<u>People of the State of Illinois v. Peter Babaniotis</u> – In this air enforcement action concerning a Will 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 \$19,215, and to cease and desist from further violations. Babaniotis further agreed to submit to the Illinois Environmental Protection Agency (Agency) within 60 days of the Board order a revised Corrective Action Completion Report (CACR) addressing each deficiency in the 2003 CACR outlined in the Agency’s October 22, 2003 letter rejecting that CACR.	4-0 L -E
PCB 05-203	<u>People of the State of Illinois and Homewood Disposal Service, Inc.</u> – 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)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$20,000, and to cease and desist from further violations.	4-0 A-E

PCB 06-117 People of the State of Illinois v. Saline County Landfill, Inc. – In this land enforcement action concerning a Saline 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)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$8,000, and to cease and desist from further violations. 4-0
L-E

PCB 06-137 City of Springfield, Illinois v. IEPA – The Board granted petitioner a 5 year variance, subject to conditions, from 35 Ill. Adm. Code 302.206 to allow Springfield to build temporary dams to create an emergency water source during drought events. The variance applies to dissolved oxygen in the following portions of the Sangamon River: (1) the six-mile pool created on the Sangamon River by any temporary dams; (2) the 5.5-mile pool on the South Fork of the Sangamon River created by any temporary dams; (3) the South Fork below the dam to its confluence with the Sangamon River; and (4) up to 12.17 miles downstream of the temporary Sangamon River dam to the rock and crib dam (between river mile 85.24 and 73.07). 4-0
W-V

PCB 06-182 People of the State of Illinois v. Kirsea Builders, Inc. - In this air enforcement action concerning a Will 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)), and accepted a stipulation and settlement agreement, ordering the respondent to pay a total civil penalty of \$3,200, and to cease and desist from further violations. 4-0
W-E

PCB 07-4 People of the State of Illinois v. Village of Tinley Park – In this water 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 \$14,000, and to cease and desist from further violations. But, the civil penalty is mitigated to \$5,000, provided respondent undertakes a supplemental environmental project (SEP) that has an approximate value of \$30,000. The SEP involve restoration and stabilization of the stream bank along Midlothian Creek in the areas of Gentry Lane and Lakewood Drive in the Edgewater Walk subdivision, to improve water quality in the Little Calumet watershed.

4-0
W-E

PCB 07-7 People of the State of Illinois v. City of Belvidere and CES, Inc. – In this water enforcement action concerning a Saline 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)), and accepted a stipulation and settlement agreement, ordering the respondents to pay a total civil penalty of \$15,000, and to cease and desist from further violations.

4-0
W-E

Motions and Other Matters

PCB 96-98 People of the State of Illinois v. Skokie Valley Asphalt, Co., Inc., Edwin L. Frederick, Jr. individually and as owner and President of Skokie Valley Asphalt Co., Inc., and Richard J. Frederick individually and as owner and Vice President of Skokie Asphalt Co., Inc. – The Board accepted the appeal of the 9/8/06 hearing officer order, which the Board affirmed in part and reversed in part. The Board granted respondents' motion to quash the discovery depositions of their attorneys, and denied the People's motion for protective order. The Board set up a strict schedule for the completion of discovery on the attorney fees issue, ordered that hearing be held no later than 12/22/06, and that all briefing be completed by 1/19/07.

4-0
W-E

PCB 03-95	<u>Abitec Corporation v. IEPA</u> – The Board granted this LaSalle County facility’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 UST Appeal
PCB 03-129	<u>Keller Oil (May 1, 2000 - August 31, 2001) v. IEPA</u> – The Board granted this Coles County facility’s motion for voluntary dismissal of these consolidated underground storage tank appeals.	4-0
PCB 03-130		UST
PCB 03-131		Appeal
PCB 03-136		
PCB 03-137		
PCB 04-171		
PCB 04-31	<u>Broadus Oil v. IEPA</u> – No action taken.	UST Fund
PCB 05-43 (cons.)		
PCB 04-16	<u>People of the State of Illinois v. Packaging Personified, Inc., an Illinois corporation</u> – No action taken.	A-E
PCB 05-49	<u>Morton F. Dorothy v. Flex-N-Gate Corporation</u> – No action taken.	Citizens A&L-E
PCB 06-16	<u>People of the State of Illinois v. Ogoco, Inc.</u> – No action taken.	W-E
PCB 06-27	<u>People of the State of Illinois v. Joel Hillman</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 Lake County facility, the Board ordered publication of the required newspaper notice.	4-0 A-E
PCB 06-53	<u>C&F Packing Company, Inc. v. IEPA and Lake County</u> – No action taken.	W-V

PCB 06-141	<u>Flagg Creek Water Reclamation District v. Village of Hinsdale, Metropolitan Water Reclamation District of Greater Chicago, Illinois Department of Transportation, and DuPage</u> – No action taken.	Citizens W-E
PCB 06-163	<u>The Theodore Kosloff Trust (as formed by the irrevocable Agreement of Trust of Theodore Kosloff, dated December 6, 1989, for Rachel Kosloff and Abigail Kosloff v. A&B Wireform Corporation</u> – No action taken.	L-E
PCB 06-171	<u>American Bottom Conservancy v. IEPA and United States Steel Corporation – Granite City Works</u> – No action taken.	P-A, NPDES 3d Party
PCB 06-173	<u>People of the State of Illinois v. First Country Homes, L.L.C.</u> – No action taken.	W-E
PCB 06-177	<u>People of the State of Illinois v. Sheridan Sand & Gravel Co.</u> – The Board denied respondent’s motion to dismiss.	4-0 L-E
PCB 06-179	<u>Illinois State Toll Highway Authority 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 facility in Cook County.	4-0 UST Appeal
PCB 07-6	<u>J. D. Streett & Company, Inc. v. Illinois Environmental Protection Agency</u> – The Board accepted for hearing this amended underground storage tank appeal involving a Fulton County facility.	4-0 UST Appeal
PCB 07-10	<u>Citgo Petroleum Corporation v. IEPA</u> – No action taken.	P-A, NPDES
PCB 07-11	<u>Lincolnshire/State Oil S&S Petroleum v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Lake County facility.	4-0 UST Appeal

PCB 07-12	<u>Fedex Ground Package System, Inc. v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Cook County facility. The Board reserved ruling on respondent's motion for summary judgment.	4-0 UST Appeal
PCB 07-13	<u>People of the State of Illinois v. Ray F. Landers, individually, and Equipping the Saints Ministry International, Inc., an Illinois not-for-profit corporation</u> – The Board accepted for hearing this air enforcement action involving a site located in Sangamon County.	4-0 A-E
PCB 07-14	<u>Conocophillips Company v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a DuPage County facility.	4-0 UST Appeal
PCB 07-15	<u>Joyce Farms Recycling, Inc. v. IEPA</u> – The Board accepted for hearing this permit appeal involving a Kankakee County facility.	4-0 P-A, Land

CASES PENDING DECISION

R06-21	<u>In the Matter of: Organic Material Emissions Standards and Limitations for the Chicago and Metro-East Areas: Proposed Amendments to 35 Adm. Code 218 and 219</u> – Proposed Rule, First Notice, Opinion and Order	R, Land
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ADJOURNMENT

Moved and seconded, by a vote of 4-0, Chairman Girard adjourned the meeting at 12:10 p.m.

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, certify that the Board approved the above minutes on September 21, 2006, by a vote of .

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board