

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



July 12, 2007
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 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

The minutes of the June 21, 2007 open meeting and the June 28, 2007 closed deliberative sessions were approved by a vote of 4-0.

RULEMAKINGS

R04-25	<u>In the Matter of: Proposed Amendments to Dissolved Oxygen Standard</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s general use water quality standard for dissolved oxygen.	4-0 R, Water
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R06-8	<u>In the Matter of: Proposed Site Specific Perlite Waste Disposal Regulation Applicable to Silbrico Corporation</u> – The Board granted petitioner’s motion to voluntarily dismiss this proposed rulemaking.	4-0 R, Land
R07-8	<u>In the Matter of: Proposed Amendments to Solid Waste Landfill Rules</u> – The Board adopted a first notice opinion and order in this rulemaking to amend the Board’s solid waste disposal regulations.	4-0 R, Land
R07-18	<u>In the Matter of: Fast-Track Rules Under Nitrogen Oxide (NOx) SIP Call Phase II: Amendments to 35 Ill. Adm. Code Section 201.146, Parts 211 and 217</u> – The Board granted the Illinois Environmental Protection Agency’s (Agency) motion for leave to file reply to the response to the Agency’s motion for reconsideration of the Board’s May 17, 2007 order.	4-0 R, Air
R07-19	<u>In the Matter of: Section 27 Proposed Rules for Nitrogen Oxide (NOx) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Parts 211 and 217</u> – The Board granted the Illinois Environmental Protection Agency’s motion for leave to file reply to the response to the Agency’s motion for reconsideration of the Board’s May 17, 2007 order.	4-0 R, Air
R08-1	<u>UIC Update, USEPA Amendments (January 1, 2007 through June 30, 2007)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is January 1, 2007 through June 30, 2007.	
R08-2	<u>RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2007 through June 30, 2007)</u> – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is January 1, 2007 through June 30, 2007.	

R08-3 RCRA Subittle C (Mazardous Waste) Update, USEPA Amendments (January 1, 2007 through June 30, 2007) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is January 1, 2007 through June 30, 2007.

R08-4 UST Update, USEPA Amendments (January 1, 2007 through June 30, 2007) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is January 1, 2007 through June 30, 2007.

R08-5 Wastewater Pretreatment Update, USEPA Amendments (January 1, 2007 through June 30, 2007) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is January 1, 2007 through June 30, 2007.

R08-6 Definition of VOM Update, USEPA Amendments (January 1, 2007 through June 30, 2007) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is January 1, 2007 through June 30, 2007.

R08-7 SDWA Update USEPA Amendments (January 1, 2007 through June 30, 2007) – The Board reserved this docket for a routine update to make the Board rules “identical in substance” to United States Environmental Protection Agency rules adopted during the update period. The update period is January 1, 2007 through June 30, 2007.

ADJUSTED STANDARDS

AS 07-006 In the Matter of: Petition of Cabot Corporation for an Adjusted Standard from 35 Ill. Adm. Code Part 738, Subpart B – No action taken. Land

AS 07-007 In the Matter of: Petition of Illinois Department of Transportation, District 8, for an Adjusted Standard from 35 Ill. Adm. Code 302.208(g) (NPDES Permit No. ILD0070955) – No action taken. Water

ADMINISTRATIVE CITATIONS

AC 07-53 IEPA v. Renee C. Lo – The Board denied respondent’s motion for reconsideration of the Board’s May 17, 2007 default order. 4-0

AC 07-57 IEPA v. Bernard Kotter – The Board granted complainant’s motion to dismiss the administrative citation. 4-0

AC 07-60 IEPA v. Joseph Combs – The Board found that this Greene County respondent violated Sections 21(p)(1), (3) and (7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (3) and (7) (2006)) and ordered respondent to pay a penalty of \$4,500. 4-0

AC 07-61 IEPA v. Ben and Destiny Wyant – The Board found that these Williamson County respondents violated Sections (p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2006)), and ordered respondents to pay a civil penalty of \$3,000. 4-0

AC 07-62 IEPA v. John A. & Kay E. Oldham – The Board accepted for hearing this petition for review of an administrative citation against these Clay County respondents. 4-0

AC 07-69 County of Vermilion, Illinois v. Robert Martin – The Board accepted an administrative citation against this Vermilion County respondent.

AC 07-70 IEPA v. Curtis and Sherry Pelhum – The Board accepted an administrative citation against these Cass County respondents.

AC 07-71 IEPA v. Steve B. and Beth M. Segner – The Board accepted an administrative citation against these Williamson County respondents.

AC 07-72 IEPA v. Landfill 33 Ltd., Wendt Family Trust, Richard Deibel, and Brian Hayes – The Board accepted an administrative citation against these Effingham County respondents.

ADJUDICATORY CASES

Decisions

PCB 05-93 York High Neighborhood Committee, Janet Hodge, Fred Hodge, Patricia Bennett, David Bennett, Sheila Trant, Mike Trant, Joe Vosicky, Jean Conroy, Peter Conroy, Frank Soldano, Joseph Reamer, Elizaeth Laliberte, and Chrles Laliberte v. Elmhurst Public Schools, District 205 – In this citizens’ noise enforcement action concerning a DuPage County site, the Board granted the parties’ motion to supplement the March 19, 2007 stipulation and settlement agreement, accepted the stipulation and settlement agreement governing operation of respondent’s air chillers, and closed the docket. 4-0
N-E

PCB 05-215 People of the State of Illinois v. First Rockford Group, Inc – In this consolidated public water supply enforcement action concerning a Winnebago 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) (2006)), accepted a stipulation and settlement agreement, ordered respondent to pay a total civil penalty of \$35,000, and to cease and desist from further violations. 4-0
PCB 06-103 PWSE

Motions and Other Matters

PCB 04-88	<u>Des Plaines River Watershed Alliance, Livable Communities Alliance, Prairie Rivers Network, and Sierra Club v. IEPA and Village of New Lenox</u> – The Board affirmed its decision and denied the respondents’ motions to reconsider the April 19, 2007 opinion and order remanding the permit the Illinois Environmental Protection Agency for additional review.	4-0 P-A Water
PCB 04-185	<u>Midwest Generation EME, LLC v. IEPA</u> – No action taken.	T-S
PCB 04-215	<u>Commonwealth Edison Company v. IEPA</u> – No action taken.	T-S
PCB 04-216	<u>Midwest Generation v. IEPA</u> – No action taken.	Moore T-S
PCB 05-98	<u>People of the State of Illinois v. Oasis Industries, Inc., an Illinois corporation</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 Kane County facility, the Board ordered publication of the required newspaper notice.	4-0 Air-E
PCB 05-125	<u>Red Rooster Corporation (f/k/a Clark Retail Enterprises, Inc.) (Clark Oil #2086) (12/30/04 IEPA Determination) v. IEPA</u> – The Board granted this Peoria County facility’s motion for voluntary dismissal of these consolidated underground storage tank appeals.	4-0
PCB 05-126		UST
Cons.		Appeal
PCB 05-219	<u>People of the State of Illinois v. Conair Corporation, a Delaware corporation</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 Champaign County facility, the Board ordered publication of the required newspaper notice.	4-0 Land-E
PCB 06-119	<u>People of the State of Illinois v. Strata Geologic Services, Inc.</u> – No action taken.	Land-E

PCB 07-10	<u>Citgo Petroleum Corporation v. IEPA</u> – The Board granted this Will County facility’s motion for voluntary dismissal of this permit appeal.	4-0 P-A, Water
PCB 07-16	<u>People of the State of Illinois v. CSX Transportation, Inc.</u> – The Board granted the complainant’s motion for summary judgment and denied respondent’s motion for summary judgment. The Board found that respondent violated various sections of the Environmental Protection Act, but assessed no civil penalty or attorney fees or costs. The Board directed respondent to cease and desist from future violations.	4-0 W-E
PCB 07-27	<u>Village of Wilmette v. IEPA</u> – The Board granted respondent’s motion for summary judgment and affirmed the Illinois Environmental Protection Agency’s denial of the requested amendment. The Board denied petitioner’s motion for summary judgment and closed this docket.	3-1 Johnson dissent UST Appeal
PCB 07-44	<u>Indian Creek Development Company, an Illinois partnership, individually as beneficiary under trust 3291 of the Chicago Title and Trust Company dated December 15, 1981 and the Chicago Title and Trust Company, as trustee under trust 3291, dated December 15, 1981 v. The Burlington Northern Santa Fe Railway Company, a Delaware company</u> – No action taken.	E-L, W
PCB 07-48	<u>Village of Wilmette v. IEPA</u> – No action taken.	UST Appeal
PCB 07-96	<u>Kyle Nash v. Karen Sokolowski</u> – No action taken.	N-E
PCB 07-97	<u>Kyle Nash v. Louis Jimenez</u> – No action taken.	N-E
PCB 07-102	<u>City of O’Fallon v. IEPA</u> – The Board dismissed this case for petitioner’s failure to file an amended petition to cure certain deficiencies.	4-0 P-A, Water

PCB 07-105	<u>Harley Frey v. IEPA</u> – The Board granted this Wayne County facility’s motion for voluntary dismissal of this underground storage tank appeal.	4-0 P-A, Land
PCB 07-113 PCB 07-116 Cons.	<u>Rochelle Waste Disposal, L.L.C. v. The City of Rochelle and The Rochelle City Council; Concerned Citizens of Ogle County v. The City of Rochelle, The City Council of the City of Rochelle, and Rochelle Waste Disposal, L.L.C.</u> – The Board granted Concerned Citizens of Ogle County (CCOC) motion to withdraw its petition, dismissed PCB 07-116, and closed that docket. The Board granted CCOC’s motion to file an amicus curiae brief in PCB 07-113, stating any brief filed by CCOC must consist only of argument, must not raise facts that are not in evidence, and must not delay the Board’s decision-making.	4-0 P-C-F-S-R 3rd Party
PCB 07-114	<u>Robert Habeeb v. The Coach House Restaurant</u> – The Board on its own motion dismissed this citizen noise enforcement action concerning a Cook County site as frivolous and closed the docket.	4-0 N-E Citizens
PCB 07-135	<u>George R. Strunk v. Williamson Energy LLC</u> – No action taken.	A,N,W-E
PCB 07-145	<u>Randy Grant, Donald Grant and Patricia Wallace v. Mach Mining (Pond Creek Mine #1)</u> - The Board held for a later duplicative/frivolous determination this citizens’ noise enforcement action involving a Williamson County facility.	N-E
PCB 07-146	<u>Fox Moraine, LLC v. United City of Yorkville City Council</u> – The Board accepted for hearing this pollution control facility siting appeal involving a site in Kendall County.	4-0 P-C-F-S-R
PCB 07-147	<u>L. Keller Oil Properties, Inc./Farina v. IEPA</u> – The Board accepted for hearing this underground storage tank appeal involving a Fayette County facility.	4-0 UST Appeal
PCB 07-148	<u>People of the State of Illinois v. Carlyle North Water Company, Inc.</u> – The Board accepted for hearing this public water supply enforcement action involving a site located in Clinton County.	4-0 PWS-E
PCB 07-149	<u>Biomedical Technology Solutions, Inc. v. IEPA</u> – No action taken.	A-V

PCB 08-1	<u>Independence Pork, LLC - Victor (Property ID No. 17-11-400-002) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Independence Pork, LLC, located in DeKalb County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	4-0 T-C Water
PCB 08-2	<u>Hildebrandt Farms - South Beloit (Property ID No. 01-04-300-008, Log No. TC-04-02) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Hildebrandt Farms, located in Boone County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	4-0 T-C Water
PCB 08-3	<u>Advantage Pork, LLC - Afton (Property ID No. 11-200-300-010) v. IEPA.</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Advantage Pork, LLC located in DeKalb County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	4-0 T-C Water
PCB 08-4	<u>Hildebrandt Farms - South Beloit (Property ID No. 01-04-300-008, Log # TC-01-03) v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Hildebrandt Farms, located in Boone County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	4-0 T-C Water
PCB 08-5	<u>Dunn’s University BP 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 Coles County facility.	4-0 UST Appeal, 90- Day Extension

PCB 08-6	<u>Future Pork, LLC-Victor (Property ID No. 07-32-100-006 v. IEPA</u> – Upon receipt of the Illinois Environmental Protection Agency’s recommendation, the Board found and certified that specified facilities of Future Pork, LLC located in Dekalb County, are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2006)).	4-0 T-C Water
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CASES PENDING DECISION

None

OTHER ITEMS

The Chairman’s motion was granted under Section 2.06(c) of the Open Meetings Act (5 ILCS 120/2.06(c). The Clerk must preserve only written minutes of closed Board deliberative sessions occurring on or before December 31, 2005 and to approve destruction of verbatim tape recordings of 2005 meetings held: July 14 and 28, August 11 and 25, September 8 and 29, October 13, November 10 and 23, and December 8, and 22.	4-0
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Chairman’s Motion was granted under Section 2.06(d) of the Open Meetings Act (5 ILCS 120/2.06(d). The Clerk must continue to keep confidential minutes of closed Board meetings occurring between January 1, 2007 and June 30, 2007.	4-0
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ADJOURNMENT

Moved and seconded, by a vote of 4-0, Chairman Girard adjourned the meeting at 11:40 a.m.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on July 26, 2007, by a vote of. 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board