

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



May 19, 2016

- Regular Board Meeting: 11:00 a.m.
 - Brown Bag Seminar 12:00 p.m.
-

REGULAR BOARD MEETING MINUTES

May 19, 2016

11:00 a.m.

Videoconference

Chicago

100 W. Randolph Street
Chicago, IL
Room 11-512

Springfield

1021 N. Grand Avenue East
Springfield, IL
Conference Room 1244 N, First
Floor

ANNOUNCEMENTS

Chairman Keenan welcomed members of the public and staff.

ROLL CALL

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

PUBLIC REMARKS

None.

APPROVAL OF MINUTES

The minutes of the April 21, 2016 Regular Meeting and Brown Bag Seminar were approved by a vote of 5-0.

RULEMAKINGS

R14-10	<p><u>In the Matter of: Coal Combustion Waste (CCW) Ash Ponds and Surface Impoundments at Power Generating Facilities: Proposed New 35 Ill. Adm. Code 841</u> (Water) – The Board granted the Illinois Environmental Regulatory Group’s motion to extend the stay of this rulemaking through July 15, 2016. The Board also directed the Illinois Environmental Protection Agency to file a status report on that date addressing issues specified in the Board’s March 17, 2016 order. The Board continued to reserve ruling on the environmental groups’ motion to re-open.</p>	5-0
R16-17	<p><u>Procedural Rule Amendments: Proposed Amendments to 35 Ill. Adm. Code 101 through 125</u> (Procedural) – The Board adopted a final opinion and order in this rulemaking which amends the Board’s procedural rules.</p>	5-0

ADJUSTED STANDARD

ADMINISTRATIVE CITATIONS

ADJUDICATORY CASES

PCB 09-60	<p><u>People of the State of Illinois v. Crop Production Services</u> (Water – Enforcement) – In this water enforcement action at three agrichemical and fertilizer retail facilities – one in Sinclair, Morgan County; another in White Hall, Greene County; and a third southwest of Galesburg and east of Highway 41 in Knox County – the Board granted relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (415 ILCS 5/31(c)(1) (2014)), accepted a stipulation and settlement agreement, and ordered respondent to pay a \$76,000 civil penalty and to cease and desist from further violations.</p>	5-0
PCB 14-3	<p><u>Johns Manville , v. Illinois Department of Transportation</u> (Land – Enforcement, Citizens) – The Board granted complainant’s motion to strike respondent’s fifth, sixth, and seventh affirmative defenses raised in respondent’s answer to the second amended complaint.</p>	5-0

<p>PCB 14-106 PCB 14-107 PCB 14-108 (cons.)</p>	<p><u>Prairie Rivers Network, Natural Resources Defense Council, Sierra Club, Environmental Law & Policy Center, Friends of Chicago River, and Gulf Restoration Network v. Illinois Environmental Protection Agency and Metropolitan Water Reclamation District of Greater Chicago</u> (Water – Permit Appeal, NPDES) (O'Brien Plant, Permit No. 28088) (Calumet Plant, Permit No. 28088) (Stickney Plant, Permit No. 28053) – On remand from the First District Appellate Court, the Board directed the parties and the Board's hearing officer to proceed with this case in accordance with the Appellate Court's decision.</p>	<p>5-0</p>
<p>PCB 16-61</p>	<p><u>People of the State of Illinois v. Amsted Rail Company, Inc.</u> (Air – Enforcement, CAAPP) – The Board denied complainant's motion to reconsider the Board's April 7, 2016 decision declining to strike respondent's two affirmative defenses relating to statutes of limitation.</p>	<p>5-0</p>
<p>PCB 16-95</p>	<p><u>People of the State of Illinois v. Sugar Camp Energy, LLC</u> (Land – Enforcement) – In this land enforcement action concerning a Franklin 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) (2014)), accepted a stipulation and settlement agreement, and ordered respondent to pay a \$40,000 civil penalty and to cease and desist from further violations.</p>	<p>5-0</p>
<p>PCB 16-96</p>	<p><u>People of the State of Illinois v. Cherokee Well Service</u> (Land – Enforcement) – In this land enforcement action concerning a White 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) (2014)), accepted a stipulation and settlement agreement, and ordered respondent to pay a \$12,500 civil penalty and to cease and desist from further violations.</p>	<p>5-0</p>

PCB 16-99	<u>Vos Farms v. IEPA</u> (Water – Tax Certification) – The Board denied the petition of Vos Farms (Vos) located in Madison County to the extent it sought tax certification of the 96 ft. x 104 ft. portion of the Proposed Bed Pack barn that does not contain the manure storage area and is used to house and feed cattle. The Board previously found and certified <u>Vos Farms v. IEPA</u> , PCB 16-99 (April 7, 2016) that specified manure pits and storage areas of Vos are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).	5-0
PCB 16-100	<u>Blake Leasing Company, LLC - Real Estate Series, as owner of Kirkland Quick Stop v. Illinois Environmental Protection Agency and Village of Kirkland</u> (Water Well Setback) – The Board denied the Illinois Environmental Protection Agency’s motion to dismiss this petition concerning a DeKalb County site. The Board gave the Agency until June 16, 2016 to file a response to the petition.	5-0
PCB 16-104	<u>Melvin Chandler, LLC v. IEPA</u> (Water – Tax Certification) – The Board found and certified that specified facilities of Melvin Chandler, LLC located in Henderson County are pollution control facilities for the purpose of preferential tax treatment under the Property Tax Code (35 ILCS 200/11-10 (2014)).	5-0
PCB 16-105	<u>Casey's Retail Company v. IEPA</u> (UST Appeal, 90-Day Extension) – The Board granted this request for a 90-day extension of time to file an underground storage tank appeal on behalf of this Sangamon County facility.	5-0

ADJOURNMENT

Moved and seconded, by a vote of 5-0, Chairman Keenan adjourned the regular meeting.

BROWN BAG LUNCH SEMINAR MINUTES

May 19, 2016

12:00 p.m.

Videoconference

100 W. Randolph Street
Chicago, IL
Room 11-512

AND

1021 N. Grand Avenue East
Springfield, IL
Conference Rm 1244 N, 1st Floor

ROLL CALL

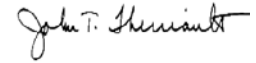
Chairman Keenan called the roll. Four Board Members answered present.

<p><u>Fundamental Fairness in Landfill Siting Proceedings</u> – Ms. Tipsord provided a PowerPoint presentation on “fundamental fairness,” which the Board must consider in pollution control facility siting appeals. First, Ms. Tipsord provided an overview of the siting process under Section 39.2 of the Environmental Protection Act and appeals to the Board from local siting decisions. Ms. Tipsord then identified the nonexclusive set of factors the Board considers in assessing fundamental fairness: the manner in which the siting hearing is conducted; the opportunity to be heard; any <i>ex parte</i> contacts; prejudgment of adjudicative facts; and the introduction of evidence. Grouping these into three primary categories—bias/prejudgment, <i>ex parte</i> contacts, and nature of local siting procedures—Ms. Tipsord reviewed judicial and Board decisions applying principles from each category. Among these were, for example, that local siting proceedings are presumed to be fair and objective; that a siting decision will not be reversed based on <i>ex parte</i> contacts without a showing of prejudice; and that siting decision makers need not attend the siting hearing as long as the siting record is made available to them. Ms. Tipsord concluded by noting miscellaneous “outlier” issues that may bear on fundamental fairness, <i>e.g.</i>, that a failure to disclose information regarding other landfills in the same service area may render siting proceedings fundamentally unfair. A copy of Ms. Tipsord’s PowerPoint presentation is available upon request. The Board took no action on this matter.</p>	<p>Marie Tipsord, Attorney Assistant to Member Glosser</p>
---	--

ADJOURNMENT

Moved and seconded, by a vote of 4-0, Chairman Keenan adjourned the brown bag lunch seminar.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board approved the above minutes on June 2, 2016, by a vote of 5-0.

A handwritten signature in black ink, appearing to read "John T. Therriault".

John T. Therriault, Clerk
Illinois Pollution Control Board