

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR INFORMAL MEETING
April 19, 1971, 189 W. Madison Street, Chicago

In the absence of Mr. Currie, who was indisposed, Mr. Lawton acted as Chairman of the meeting.

He announced that consideration by the Board should be given to Opinions in Standard Brands v. EPA, #71-3, the proposed variance of Universal Land Reclamation Corporation, #71-71, and in GAF v. EPA, #71-11. Also to be considered were the following cases:

EPA v. Modern Plating Corporation, an enforcement action consolidated with Modern Plating Corporation v. EPA, a variance request, and EPA v. John T. LaForge Company, Inc., #70-39, an enforcement action consolidated with John T. LaForge Company, v. EPA, a variance request. Consideration should also be given to Edison's request for modification of the Order relative to the Dresden plant seeking operation of Unit #3 prior to construction of the cooling lake.

Phosphate regulations should also be considered and a procedural matter involving Moody v. Flintkote, #70-36, should be discussed.

While regulations for water quality standards and effluent standards were on the agenda, it was felt that consideration of these subjects should be postponed until Mr. Currie had returned.

Mr. Lawton reported on the Standard Brand Opinion. He stated the petitioner was operating under an Acerp, calling for substitution of gas and oil-fired burners for the three coal-burning boilers presently in operation. He reviewed the events occurring prior to the filing of the variance petition and observed that in addition to the burdens resulting from the coal burning, a severe nuisance was being created by gaseous emissions from the sewage treatment plant. It was agreed that the opinion would be revised to grant the proposed variance until April 27, 1972, prior to which time, the company would report on its progress and seek an extension of variance to September 1, 1972 to complete its construction. Bond in the amount of \$150,000.00 was proposed [later modified] to guarantee compliance after September 1, 1972 and an additional \$50,000.00 bond was required to assure abatement of odorous emissions from the sewage plant within 60 days from the entry of the Order. All dates were revised to conform to the entry of the order entered April 24, 1971. On motion of Mr. Kissel, all members voting 'aye', the opinion was adopted, as modified.

Mr. Lawton reported on the variance application of Universal Land Reclamation Development Corporation, #71-1, and submitted an Opinion and Order that the petition for variance be dismissed, without prejudice, because of the inability to determine from the petition the relief being sought. On Mr. Kissel's motion, all members voting 'aye', the opinion was adopted.

Mr. Dumelle next summarized his opinion in the case of GAF v. EPA, #71-11. Petitioner seeks a variance to continue its polluttional discharge into the Des Plaines River and to be granted a further extension of time to begin construction of its sewage treatment facilities. He stated that GAF was discharging approximately 3,000,000 gallons a day with a BOD concentration of 600 milligrams per liter and 800 milligrams per liter of suspended solids, which was a population equivalent of 90,000 persons for BOD and 100,000 persons for suspended solids. In addition, approximately 25 pounds per day of lead was being discharged, all into the Des Plaines River. He summarized all events occurring prior to the filing of the variance petition, including the failure of the company to meet the deadlines granted by the Sanitary Water Board and the filing of the present variance after expiration of the latest deadline. No construction for either the primary or secondary plant had been initiated, although some site clearance had taken place in December for the primary plant, which Mr. Dumelle felt does not constitute construction in the legal sense. He noted that the company was to have commenced construction on both plants by December 1, 1970. Various alternatives were discussed. Mr. Dumelle proposed that the variance be granted to June 19, 1971, but as a condition, a penalty of \$149,000.00 be imposed, that progress reports be filed during the period of the variance and a supplemental petition be filed prior to that date for extension of time as appropriate, subject to compliance with the following conditions:

A program for reduction of lead discharges be submitted; the company's contractor work on a full time basis, double time seven days a week to complete the treatment facilities; that all permits be obtained; that a \$2,600,000.00 bond be posted to assure compliance with time schedules as approved; and that penalties be imposed in the amount of \$10,000.00 plus \$1,000.00 per day from December 1, 1970, which was the deadline for beginning of secondary treatment construction. Polluttional discharges could not be increased in strength or volume. On motion of Mr. Dumelle, all members voting 'aye', the opinion was adopted.

Dr. Aldrich stated that he proposed to write a separate opinion taking exception to the language in the opinion concerning petitioner's lack of diligence and further taking exception to the language that employees take appropriate action against their employers

to assure compliance with pollution regulations.

Mr. Kissel reported on the petition for modification of the Dresden order filed by Commonwealth Edison, #70-21, relative to Unit #3. Reviewing the conditions under which #3 could operate without construction of the cooling lake, on emergency motion, the Board modified its original order to permit operation of Unit #3, providing the thermal standards of SWB8 would be met. Further hearings were held at which Edison stated that its reserves would be inadequate to meet peak summer demands for 1971 and that without Dresden #3 in operation, a reserve would be 2.15% instead of 8% as previously understood. Cooling sprays were being installed in the canals leading to and from the lake. Mr. Kissel reviewed the various outages, both existing and contemplated, as well as limitations on power resulting from increased water temperature, burning of low sulphur coal and various operational limitations. On the basis of the total capacity of 13,383 megawatts and a total peak load of 11,360 megawatts, excluding outages, a 19% reserve would exist. However, after elimination of Dresden #3 and other facilities specified in the petition, the previous reserve of approximately 2,000 megawatts would be reduced by 1,797 megawatts leaving a 2.15% reserve. The effect of the spray modules to be installed by June were discussed. Mr. Dumelle concluded that it would take out approximately 1/2 of the total heat assuming both Dresden #2 and #3 in operation and would be comparable to Dresden #2 operating alone without the sprays. Dr. Aldrich observed that the effect of heat is reversible. Discussion next followed as to the possibility of using Dresden #2 and #3 as peaking units, which would require a raising from 500 megawatts to approximately 809 megawatts. The brief filed by the Environmental Law Society was discussed, suggesting limited operation of Dresden #3 during peak summer months prior to completion of the cooling plant, subject to a limitation of 800 watts total output from #2 and #3 unless the only alternative was to curtail service to customers and the filing of a \$500,000.00 bond to be forfeited if the cooling lake was not in operation by October 1, 1971 or the conditions on operation are not met. Mr. Kissel proposed consideration of a possible alternative by which SWB8 standards would be met in the discharge canals which could be exceeded for peak operation when certain specified conditions were met, certain load shedding to be required, that additional power be purchased and that full reports be made to the Board detailing the circumstances requiring SWB8 to be exceeded. Mr. Dumelle suggested as an alternative that Dresden #3 be permitted to operate during May and June when the thermal impact would not be so severe, during which period Edison could take corrective measures to minimize its outages enabling the reserve to be re-established minimizing the need for Dresden #3 to operate during the hot summer months. It was agreed that Mr. Kissel

would write to Edison to ask what repairs could be effected in other units in the system if Dresden #3 would be allowed to operate at full power until June 14, and will get further clarification on the status of the spray facilities. In the event that the repair program is not feasible, consideration would be given to a possible modification allowing Dresden #3 to operate at peak levels subject to conditions of load shedding, outside purchases and reporting.

Mr. Lawton next reported on the Modern Plating case. He stated that the company had been charged with violation of effluent standards for cyanide and water quality standards applicable to the Pecatonica River. He reported that no measurements were made in the river and that, accordingly, in his view, the only violation that could be found was SWB5 relative to cyanide. He stated that the company had filed a petition for variance seeking to continue discharge of contaminants in excess of TR20-22 limits (cyanide, chromium, copper and zinc) until September 30, 1971, prior to which date it would have completed its waste water treatment plant now under construction. Mr. Lawton reviewed the events leading up to the filing of the variance, commenting on the company's awareness that it was violating the cyanide limits for the last six years. From the state of the record, it was concluded that the fishkill could not be attributed to Modern Plating's discharge. Mr. Lawton proposed that an Order and Opinion be prepared finding Respondent in violation SWB5, that a variance be granted to September 30, 1971 to permit construction of the waste water treatment plant during which period Modern Plating could discharge effluent of concentrations requested in its petition other than cyanide and that the old plant be tied into the municipal sewage system. This allowance, in effect, would permit the effluent discharges to cause a violation of the water quality standards. Respondent would be found not guilty of violating the Sanitary Water Board Act, SWB11 relative to water quality standards and TR20-22, which was not a regulation but a criteria document. Mr. Dumelle suggested the possibility of computing whether the effluent measurements found might constitute a water quality violation on which he would report to the Board. A personal bond in the amount of the construction cost of \$550,000.00 would be required. Mr. Lawton stated that he would draw up an Opinion and Order incorporating the conclusions reached.

Mr. Lawton next reported on the case of EPA v. LaForge which operates a rendering plant in Freeport, pumping effluent from its operation into the Pecatonica River, containing concentrations of BOD, ODI, TSS and fecal coliform in excess of SWB11, Section 1.08 standards. Mr. Lawton noted that while measurements were also made only of the effluent and not in the river, the violations

alleged were of effluent standards. Mr. Lawton stated that a variance petition was also filed in this proceeding asking for an eight month period in which to construct a sewer which would connect with a second sewer, which in turn would connect with the municipal sewer system. The events preceding the filing of the variance were discussed indicating an inordinate delay in taking affirmative steps to control its polluting discharges and the failure to install even minimal chlorination facilities which would control the fecal coliform. Mr. Lawton proposed that an Opinion and Order be drafted finding LaForge in violation of SWB11, Section 1.08 and 12(a) of the Environmental Protection Act, that a fine of approximately \$500.00 be assessed, that the variation be granted to October 8, 1971 on condition that chlorination equipment be installed to assure reduction of the fecal coliform count to regulation limits. Mr. Lawton agreed to prepare an Opinion and Order incorporating the foregoing matters.

Mr. Kissel reported that Commonwealth Edison had submitted an implementation report relevant to its Dresden plant with particular regard to liquid and gaseous radio-active emissions, and thermal controls, containing various alternatives that would require analysis by technically qualified personnel. He suggested that perhaps the Institute be requested to consider such analysis to be made, and that consultants be employed for this purpose. On suggestion of Dr. Aldrich, the matter was tabled for further discussion.

On motion of Mr. Dumelle, the schedule of meetings for the coming year was adopted unanimously.

On motion of Mr. Kissel, all members voting 'aye', it was resolved that a get-well card be sent to the Chairman, that he cease and desist being sick by the following Monday and that upon failure to comply with this Order, he be deemed in violation of all statutory and regulatory rules relating to air, water and land pollution as well as noise and atomic radiation.

Mr. Sullivan stated that Respondent, in the case of Moody v. Flintkote, have requested that certain answers to Interrogatories filed by it be marked "Not Subject to Disclosure". Specifically, the request was directed to Answers to Interrogatory 3(a) dealing with the identity and description of products manufactured at the plant; 3(b), relating to the composition of each product; 3(c) specifying quantities of each product during the years 1968 to 1970, 8, describing inputs per hour for specified stages and equipment; 15, dealing with normal capacity of the plant by product in terms of hours per day, days per week, tons per day and tons per week;

16, relating to full capacity of the plant; and 17, listing hours and days of operation of the plant from July 1, 1970 through November 25, 1970. Dr. Aldrich stated that he believed data relative to process weight should be marked "Not subject to disclosure". A vote was taken with regard to the designation of paragraph 8 listing input process weight in pounds per hour.

Mr. Lawton, Kissel and Dumelle voted that answer to Interrogatory No. 8 be not marked "Not Subject to Disclosure". Dr. Aldrich voted that answer to Interrogatory No. 8 be so designated. Mr. Kissel expressed the view that such a precedent would impose severe limitations on the trial of cases and preparation of opinions by the Board and in his judgment, such data should be for public scrutiny. After further discussion, Mr. Lawton was directed to prepare an Order whereby answers to Interrogatories 3(c), 15 and 16 be marked "Not Subject to Disclosure", and that the motion for designation of Interrogatories Nos. 3(a), 3(b), 8 and 17 as not subject to disclosure be denied, all members voting 'aye' with Dr. Aldrich dissenting on the treatment of answer No. 8.

Mr. Lawton reported that the Lake County Forest Preserve District, #71-64, had requested a variance from the open burning regulations to allow the burning of Berkeley Prairie which was deemed necessary for its preservation. The Agency had recommended an allowance of the variance subject to the burning being conducted on a one-time basis between the hours of 9:00 A.M. and 4:00 P.M. when weather conditions were favorable to smoke dispersion and that the burning be supervised by the personnel of the Lake Forest Forest Preserve District and the Highland Park Fire Department. On Motion of Mr. Lawton, unanimously passed, the Board entered an Order granting the variation subject to the terms and conditions of the Agency recommendation, and directed Mr. Lawton to prepare an Opinion for adoption at the April 26 meeting.

I, Christan Moffett certify that the Board has approved the above minutes this 25th day of April, 1972, by a vote of 5-0.


Clerk of the Board