

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF INFORMAL MEETING, MAY 3, 1971
Board Library, 189 W. Madison, Chicago, Illinois

All Board members were present (10:14 a.m.)

Revised opinions in PCB 70-38, PCB 71-6, Modern Plating Corp, v. EPA, and PCB 70-39, & PCB 71-18 LaForge & Co. v. EPA were first discussed and then adopted by a vote of 5-0.

In PCB 71-1, 183rd Tactical Fighter Group v. EPA, the petitioner had requested a change in the Board's order from burning in the afternoon to the morning. The Board adopted an amended order agreeing to the change. The Board then discussed a proposed opinion granting an open burning variance according to EPA recommendations in PCB 71-27, Charles Fiore Nurseries, Inc. v. EPA.

Next, the Board discussed the EPA's recommendation to dismiss a variance extension request in PCB 71-60, Olin Corp. v. EPA. This concerns the corporation's burning site near Marion, Illinois, and is not connected to previous cases involving this company.

The EPA recommended a dismissal as the corporation is using different technology here than at other locations. Mr. Currie was not sure the EPA's recommendation was a motion to dismiss. But if it was, the Board denied it and the case remained authorized for hearing. Then the Board discussed the employees' tabling their complaint in PCB 71-39, Holmes Brothers v. Merlan, Inc.. The Board members agreed, that although the Board cannot make a private party prosecute its complaint, it wants to have assurance that a pollution problem is corrected before it will dismiss a case. A hearing was postponed until the Agency checks and submits a recommendation. Mr. Currie then discussed and the Board approved his opinion covering several open burning cases which were dismissed on April 28, 1971. The petitioners in PCB 71-81, Belleville Concrete Cont. Co. v. EPA; PCB 71-82, G. Helmkamp Co. v. EPA; PCB 71-90, City of Delavan v. EPA; and PCB 71-95 Town of Chatsworth v. EPA, may refile their petitions after the EPA Open Burning hearings are held and regulations are adopted. The Chatsworth case, which had not been previously considered, was dismissed. Also the opinion was adopted in PCB 71-92, Gregory-Anderson Co. v. EPA, which dismissed the petition requesting the Board to set aside the Agency's denial of a permit to conduct a landfill operation.

Another amendment was added to the proposed opinion in R 70-2, Thermal Standards, Lake Michigan, stating that public comment would be accepted. The Institute's new publication on heat rejection and thermal pollution was added to the list of exhibits and Mr. Currie indicated that it contained information on the conflict as to costs of backfitting at Zion nuclear plant.

A unanimous vote was given to allow publication of the tentative opinion in R 70-2. Mr. Dumelle recommended that a

copy be sent to the FWQA.

In PCB 70-7, 12, 13 & 14, League of Women Voters of Illinois, et. al. v. North Shore Sanitary District, the NSSD had submitted a letter requesting a declaratory opinion by the Board as to "when a house is demolished, does a new house built thereon constitute a 'new connection'", which is banned by the Board's order. Mr. Currie said the Board has formal procedures to determine these questions, thus no advisory opinions or declaratory judgements will be given. The Board then noted that in PCB 70-50 Lipsett Steel Products, Inc. v. EPA; PCB 70-7, 12, 13 & 14, League of Women Voters of Illinois, et. al. v. North Shore Sanitary District; and PCB 71-8, City of Mattoon v. EPA, appeals had been filed from the Board's orders. The NSSD's appeal was limited, he said, to the issue of bonds above statutory limit and was filed because bond counsel insisted on a court decision upholding the Board's authority. Discussion of R 70-17, DuPage Country Sewage Regionalization was postponed.

The Board then discussed R 71-3, Ohio River Secondary Dates. It voted to allow the Agency ten days to file a statement. Mr. Dumelle will prepare a proposed opinion.

After discussion Mr. Kissel agreed to prepare an opinion in PCB 70-9, EPA v. Springfield City, Water Light & Power Co. to require rapid conversion of old boilers to oil and repair of the precipitator, submission of a plan for sulfur dioxide control, and repair of the ash pit dike.

The only legislative matter discussed was the appropriation bill. All members agreed that one should be present at the Springfield hearings. Mr. Dumelle volunteered to attend them. Discussion followed on the phosphorus removal variance request in #71-36, North Shore Sanitary District v. EPA. Mr. Kissel suggested the Board decide the questions of phosphorus removal and interim treatment measures at one time since they are interrelated questions. The Board then put further discussion off until the transcripts of the League case (#70-7) were ready.

The Board discussed PCB 70-49, EPA v. Koppers Co., Inc. Mr. Currie stated that the Agency had not adequately proven several elements of its case and that the opinion should indicate this. Mr. Dumelle suggested a \$1,000 per day for each of the five days on which permit limits were exceeded since the overload was not accidental. After further discussion, the tentative consensus was a) flocculation by June 1, 1971, b) schedules submitted on new topsoil, replanting, and cleaning sludge from lagoons, c) activated sludge plant be in full compliance by October 1, 1971, and d) a \$1,200 penalty. Mr. Currie will write the opinion to be discussed at the next meeting. There followed further Board discussion of PCB 71-17, Hardwick Brothers Co. v. EPA, which was partially covered in the morning session. Mr. Kissel explained his opinion, which grants the burning variance with several conditions. The proposed opinion and order were passed 4-1 (Currie dissenting). It grants the variance till September 3, 1971 subject to the company's submitting evidence as to the use of an air-curtain destructor and as to the possibility of securing additional land on which to bury. The information must be to the Board and the Agency within 60 days and the Agency's recommendation to the Board a month thereafter. An amendment to the opinion was added saying that

the company "shall bury the ashes."

Final Board discussion centered on R 71-14, the revised Water Quality Standards. Mr. Currie suggested the addition of definitions for the words Agricultural Waste, Industrial Wastes, and Marina and a revision of the repeal provision. A small section change was made. Also, pesticide standards will be included. The Board finished with a general discussion of the various aspects of the standards which are anticipated to be proposed at the May 12, 1971, meeting.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Minutes this 25th day of April, 1972, by a vote of 5-0.

A handwritten signature in cursive script, reading "Christan Moffett", is written over a horizontal line.