

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR MEETING, SEPTEMBER 2, 1970
107 N. E. MONROE, PEORIA

Mr. Currie opened the meeting with a brief explanation of the Board and its functions and Mr. Dumelle, who formerly served as Assistant to the Peoria City Manager, welcomed the Board to Peoria. After Board approval of the minutes of meetings held August 17, 19 and 24, the Board resolved itself into a hearing panel for the purpose of hearing testimony relating to Docket #R70-1, the repeal of regulations providing for exemption of municipal subdivisions from the air pollution and water pollution laws. Mr. Kissel testified as to the reason for the proposed repeal and introduced into the record a copy of an opinion relating to the impact of the Environmental Protection Act on local exemptions which had been written by Mr. Lawton as Chairman of the former Air Pollution Control Board. The Board then authorized hearings on Mr. Currie's proposal for the repeal of regulations SWB-3, 4, and 16, which relate to Sanitary Water Board procedures, to water quality objectives for the Mississippi River, and to the adoption of a seal for the Sanitary Water Board. All three matters, Mr. Currie explained, were purely perfunctory since the three regulations in question were all obsolete. The Mississippi River objectives, he added, had been effectively superseded by water quality standards for the same stretch of the river adopted in SWB-13. The Board then voted to change the dates of its meetings and hearings which had formerly been scheduled for September 30 in order to avoid conflict with the federal-state Lake Michigan conference which will take place during the same week. The September 30 meeting and hearing were rescheduled to the same place and time on October 8 and the October 2 mercury hearing rescheduled to 2 p.m. October 14, in Chicago.

Mr. Lawton then summarized an opinion he had written for Board consideration, in case #70-6, Swords v. Environmental Protection Agency. This case concerns a request for variation from the prohibitions against open burning as applied to wastes generated in a lumber mill operation in Peoria. In Mr. Lawton's opinion the petitioner had not satisfied his burden of proving that compliance with the regulations would impose an arbitrary or unreasonable hardship as required by the statute for the grant of a variation. The statutory standards, he said, "require far more than a simple balancing of petitioner's burden in complying with the regulations against the public benefit in enforcement of the law. The evidence to justify the allowance must be substantial and convincing." Mr. Kissel added that the statute does not authorize the Board to license continued pollution, but that the variation procedure is intended to permit continued operation while the petitioner is taking reasonable steps to bring his operation into compliance with the law. The Board unanimously adopted Mr. Lawton's opinion and denied the request for variation.

At Mr. Dumelle's request, Mr. Currie then explained that the reason for the Board's writing and adopting detailed opinions in particular cases was to explain to the parties, to the public, and to people similarly situated in future cases the reasons for the Board's decision in order to facilitate public understanding, to give guidance to people in the future regarding the Board's interpretation of the law, and to help assure that people similarly situated receive similar treatment.

The Board then by a vote of 4 to 0 authorized a public hearing in the matter of #70-7, League of Women Voters against North Shore Sanitary District, following Mr. Currie's and Mr. Kissel's statements that the complaint could not be considered duplicitous despite the pendency of a court action against the district because no such case was pending before the Board itself, and following Dr. Aldrich's statement that the matters alleged in the complaint were certainly far too serious to be considered frivolous. Mr. Lawton, who had not voted on the motion to schedule a hearing, announced that he would not participate in the case because of his dealings with the District in his former position as Mayor of Highland Park.

The Board then proceeded to informal discussion of the water quality standards governing the Illinois River. In response to a question by Mr. Kissel, Mr. Klassen reported that the use designations in SWB-8 had been based on uses existing at the time of the designation, and said that the uses should definitely be upgraded. Dr. Boruff, a member of the former Sanitary Water Board, urged the Board not to rush into changing the water quality standards, but rather to wait and see whether clean-up programs designed for completion in 1972 would succeed in bringing the River up to the desired water quality. The Board, he said, should be careful not to "over clean" the River. In response to a question by Dr. Aldrich, Mr. Klassen said that the Agency had long term records which would show trends in water quality and that he would make such records available to the Board. He added that although there was no epidemiological evidence to support today's tightened water quality standards, they were justified by the need for a greater safety factor.

In response to another question from Dr. Aldrich regarding the coordination of sampling by the Agency and by the State Water Survey, Mr. Klassen said that a duplication of sampling was useful in order to check errors; that both Agencies needed additional money for sampling; and that the Agency would have improved facilities for sampling by the following number. Dr. Aldrich said that a single report was needed combining sampling data collected by both the Agency and the Water Survey, and Mr. Klassen suggested that the compilation of such a report would be a job for the Institute in connection with its responsibility to develop an Environmental Data Bank.

In response to questions by Mr. Currie, Mr. Klassen acknowledged that the fecal coliform standard for secondary recreation applies to the entire Illinois River and said that 1969 sampling of fecal coliform had been inadequate due to a shortage of laboratory facilities. However, he added, improved facilities would make possible more adequate measurements of this parameter in the near future. He agreed with Mr. Currie that the state had too many conflicting standards for bacteria and argued that the Institute should standardize the procedure and invent a more satisfactory bacterial parameter. He also noted that the recreational use designation for the section of the Illinois River upstream from Peoria included such primary contact uses as water skiing.

Mr. Dumelle asked whether the Agency had prepared an effluent inventory as required by federal grant regulations. Mr. Klassen replied that Illinois was a demonstration area for the development of such data for the Federal Water Quality Administration. Mr. Dumelle expressed concern that the existing standards for the Illinois River had apparently been set without regard to existing effluent loadings.

In response to a question by Mr. Kissel, Mr. Klassen agreed to submit to the Board a proposal for revised regulations governing the Illinois River upon request by the Board. Mr. Currie said that a written request would be forthcoming.

Dr. Aldrich asked Mr. Klassen for data on agricultural runoff which he had requested some time ago, and Mr. Klassen said that some such data was available.

In reply to a question by Mr. Currie, Mr. Klassen said that water quality standards took effect on the date of their adoption so that any discharges which rendered the quality of the stream below that prescribed by the standards constituted a present violation. Dr. Boruff added that although this was technically true the important thing was to be sure that facilities for correcting the violation were being constructed on schedule. He pointed to the dilemma faced by local sanitary districts which were required to construct facilities and which had reached the limit of their bonded indebtedness. Mr. Currie noted that a partial solution for this dilemma lay in support for the Anti-Pollution Bond Issue on November 3 ballot.

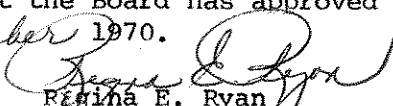
Mr. Klassen agreed with Mr. Currie that the Board should re-examine its drinking-water standards, which had been based on those whose violation would constitute grounds for rejection of public water supply as recommended by the United States Public Health Service. A second set of Public Health Service standards imposed a more stringent set of criteria which should be met if superior supplies were available. Mr. Currie also urged that the pH standard for the Illinois River be upgraded in view of the fact that 1969 sampling demonstrated that a more stringent standard could be met without difficulty. The present standard, he said, allowed degradation of the present water quality in violation of the nondegradation standard of SWB-8 itself. He also expressed concern that the standards in SWB-8 did not apply during periods of extreme low flow and, analogizing such situations to air pollution episodes, suggested that some emergency procedures be adopted in order to protect against fish kills or other pollution crisis at times of low flow. Finally he urged amendment of the present standards which permitted dilution of the effluent prior to its discharge to the stream. Dilution, he said, was unacceptable so long as the effluent standard was less strict than the standard for the quality of the stream itself, and therefore effluent standards ought to be expressed on some sort of total mass basis.

Mr. Lawton asked about the role of the Board in federal proceedings for designating air quality control regions. Mr. Klassen responded that the Agency had been asked to attend additional consultations regarding new such regions along the Mississippi River, and he inquired whether the Board intended to attend as official state representative. It would be logical for the Board to attend, he said, since the Board has the responsibility for adopting and

implementing air quality standards to govern such regions. Mr. Kissel responded that both the Agency and the Board ought to be represented, as also was the case in water pollution conferences called by the Federal Water Quality Administration. Mr. Currie agreed with Mr. Kissel and said that the Board would give further consideration to the question of official state representation at such meetings. Mr. Klassen reported that proposed revisions in the episode regulations governing air pollution would be sent to the Board this week and he reported that he had met with Commissioner Poston of the Chicago Department of Environmental Control and had worked out the framework for a joint episode control strategy whereunder the city would order control of sources within its boundaries and the state would order control of sources outside the city. Both Agencies would use the same figures for determining whether or not to call an alert, and both Agencies would work together from the offices of the city department. The cooperation of Indiana authorities, he added, would be sought in further meetings during the following week.

Mr. Tom Edwards urged the Board to review all criteria governing the Illinois River, chemical as well as bacterial. Miss Patricia Foster argued that water quality standards should not be permitted to serve as a license to degrade the waters, rather that the water should be made as pure as is technologically feasible. Mr. Dodge, representing the Caterpillar Company asked the Board to provide an agenda of future meetings and added that his company wished to submit a later statement regarding water quality standards. Mr. Currie said the Board would welcome a statement from Caterpillar or from any other interested citizen and added that further opportunities for formal and informal consultation regarding the Illinois River would be afforded in the near future.

I, Regina E. Ryan, certify that the Board has approved the above minutes
this 8th day of October 1970.


Regina E. Ryan
Clerk of the Board