

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR MEETING
OCTOBER 14, 1970, 750 SOUTH HALSTED ST., CHICAGO, ILL.

The Board first voted unanimously to authorize a hearing in #70-22, Nestle Co. v. EPA. a petition for a variance to permit the discharge of particulate air pollutants in excess of those permitted by the regulations during the time required to install pollution control equipment, which it was alleged it would take until the end of 1971. Mr. Currie said the Board ought to have a hearing in order to determine why the installation of control equipment would take so long and why the installation had not been made in the past since the particulate regulations had gone into effect in 1967.

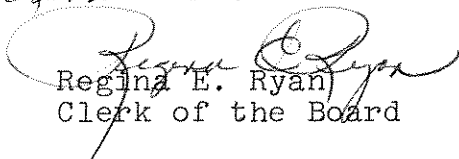
The Board next unanimously adopted a resolution proposed by Mr. Dumelle endorsing the anti-pollution bond issue which appears on the ballot for the general election November 3 and which will provide 750 million dollars, largely to aid in the construction of municipal sewage treatment plants. This bond issue, the resolution said, would materially aid in fighting water pollution throughout the state and could generate additional amounts of federal grant assistance.

Mr. Currie then asked the Board to approve an opinion he had written in explanation of the procedural rules adopted the previous week, #R70-4. The opinion, he said, was based substantially on an explanation that had been circulated with the original draft of the rules in early September, but it had been revised to take account of changes in the rules. He called the Board's attention to the last paragraph of this opinion, which rejected the argument that the Board could not by rule prescribe procedures which had not been prescribed by the statute itself. This position, he said, would mean that the Board could not prescribe discovery, or rules of evidence, or any of the myriad procedural details which the Legislature had left to the Board under the general grant of authority to adopt procedural rules in the statute. The Legislature's silence, he said, was to be interpreted as leaving these issues to the Board. Mr. Kissel observed that he did not feel the Legislature had been silent but rather that the Legislature had delegated broad authority to the Board to establish procedural rules. Mr. Currie said that what he had intended was the General Assembly's silence on specific issues such as

cross-examination and intervention and said he would amend his opinion to make this clear in accordance with Mr. Kissel's suggestion. The opinion as so amended was unanimously adopted.

Mr. Currie then announced that at the Board's next formal regular meeting in Edwardsville on October 28 the Board expected to discuss the general water pollution problems of the Mississippi River.

I, Regina E. Ryan, certify that the Board has approved the above minutes this *28th* day of *October*, 1970


Regina E. Ryan
Clerk of the Board