

MINUTES OF INFORMAL REGULAR MEETING

November 30, 1970

189 West Madison Street

Chicago, Illinois

Mr. Lawton was absent conducting a hearing.

Commissioner H. Wallace Poston, of the Chicago Department of Environmental Control, said that the City would appreciate the opportunity to make an input to the Board in advance to hearings on subjects of mutual interest. Mr. Currie agreed that such contacts would be a good idea and would be helpful in coordinating City and State regulations and agreed to send advance copies of regulations to be proposed to the City with a request for advance comments as had been done already in the case of several proposed air pollution regulations.

Mr. Currie asked Mr. Poston if he would like to meet with Mr. Currie and with Mr. Klassen of the Environmental Protection Agency in an attempt to work out the details of cooperation between City and State enforcement agencies in the enforcement of regulations to implement the air quality standards for sulfur and particulate matter in the Chicago Interstate Region. Mr. Poston said that he would and Mr. Currie agreed to set up such a meeting for Friday, December 4, or Friday, December 11 at the Board's offices. Mr. Poston also agreed to submit to the Board information on the man power and financial resources which the City intended to invest in air pollution control activities also for inclusion in the implementation plan. With regard to the episode regulations, Mr. Poston observed that it was entirely proper for the State Agencies to watch over the City's shoulder in regard to episode control activities, and asked that the Environmental Protection Agency give the City an evaluation of the City's activities after such observation.

Mr. Poston reported that the City was about to receive a detailed report on proposed noise regulations, and added that the City might be able to help in the control of airport noise, despite extensive Federal pre-emption, by its control of leasing space at City owned airports. He noted that the City would soon need to take some action to regulate automobile pollution and Mr. Currie added that the City was in a better position to regulate the use of automobiles within its borders than was the State Board. Mr. Poston also noted a serious problem with regard to the disposal of solid waste and observed that the City could not solve its problems alone without the cooperation and participation of surrounding areas. Mr. Kissel observed that the City had the right to propose regulations before the Board on any of the above subjects. Mr. Poston added that it seemed unlikely that federal funds would be forthcoming to help finance the City's proposed testing program for catalytic converters on automobiles because of the existence of a similar program in New York City. Among the advantages of his proposed program, Mr. Poston said, were an attempt to collate the results of short-term and long-term emission testing and to ascertain the benefits of automobile maintenance in reducing emissions. The coming City budget for Environmental Control, he added, was to be increased by \$700,000, but would have to be spent to cover additional new areas of environmental concern.

Mr. Poston expressed concern with the existing 1977 date for combined sewer overflow control in SWB-15 on the ground that insufficient money seemed to be available for this purpose. Federal legislation, he said, was needed and there was no point in discussing tertiary treatment until the combined sewer problem was overcome. Mr. Dumelle observed that combined sewer overflows constitute only 3 to 5% of the total BOD load although they add a considerable aesthetic problem. He added that the Board was about to consider requiring tertiary

treatment on a State-Wide basis. Mr. Currie said that the Board was quite concerned with the combined sewer problem, and that if additional Federal money seemed to be necessary, he would be happy to support a proposed bill to make such aid available. Mr. Dumelle added that he was uncertain that a deep tunnel was the best answer to the combined sewer problem. It might be better, he said, to treat the storm water overflow at each outfall rather than endangering men by sending them far below the surface.

Mr. Currie said the Board would welcome any input from Chicago as to what regulations ought to be adopted in the implementation plan for controlling emissions of particulate matter and sulfur dioxide. He also asked what information the City had as to the availability of low sulfur fuel. Mr. Poston said that in the City's experience, fuel suppliers when forced to find a supply of low sulfur fuel had managed to find a way to do so. Many suppliers concede they have an alternative plan for such supply if it is necessary, and if the supply problem was serious, he thought the Federal Imports people would permit more such fuels to be imported.

With regard to the citizen requests to schedule hearings regarding airport noise and tertiary treatment on the DesPlaines River, Nos. R70-12 and 13, Mr. Dumelle observed that he would prefer to delay such hearings until adequate staff support as to the technical feasibility of the suggestions could be obtained. Mr. Currie observed that the Institute's assistance was quite essential in regard to technical information regarding the proposed effluent standards, and at his request and that of Mr. Kissel, Mr. Currie agreed to ask Mr. Schneiderman of the Institute to discuss with the Board what research projects the Institute was conducting and could conduct on behalf of the Board.

In response to a NAPCA communication received in the hearings on #R70-9, the proposed air quality standards for automotive pollutants for the Chicago and St. Louis Regions, Mr. Currie suggested that the one-hour carbon monoxide proposed standard be lowered from 30 ppm to 15 before publication of the revised draft in order to promote statistical consistency with the proposed 8-hour standard. Mr. Kissel asked whether there was evidence that 15 parts per million for one hour was harmful to health; and Mr. Currie said he did not think so and agreed that therefore it would be more desirable to omit the 1-hour standard altogether in order to avoid statistical inconsistency without prescribing a standard tighter than was required. Mr. Currie also asked the Board to authorize omission of the proposed standards for lead and for nitrogen oxides on which no criteria documents were yet available and little evidence had been received particularly since new hearings would be required after publication of the Federal documents in the Spring. The Board was also asked to agree to a renumbering of the proposed final draft, to the correction of the reference to methane equivalent for measurement of hydrocarbons, and to the insertion of an introductory section specifying a nondegradation standard and the areas to which the proposed standards would apply, as well as stating that the proposed standards were to be met at a date to be designated in the future. Mr. Currie explained that this last section was meant to say that the Board would prescribe such a date when it adopted the implementation plan for these air quality standards in mid-1971, and he agreed to amend his request to state this more explicitly. The Board then approved these several amendments to the proposed final draft. Similar changes were made in the proposed draft in #R70-10 air quality standards revisions, which renumbers and incorporates all the existing air quality standards.

Mr. Currie also asked the Board to add to the proposed regulations governing open burning, #R70-11, an exemption for the burning of refinery waste

gases and safety flares. Mr. Dumelle thought that the burning of waste gases from refineries might in some cases create a significant sulfur dioxide problem and Mr. Currie agreed to omit the proposed exemption pending evidence as to the effect of such gas flares at the time of public hearing.

Mr. Dumelle asked that the Board try to hold down the number of revised drafts published, because it was difficult for the ~~public to follow~~ and to understand a succession of different proposals. He suggested that, wherever possible, the Board study a proposal thoroughly in advance of initial publication, so as to be reasonably sure that the first draft is correct. Mr. Currie said that he agreed that this was a desirable practice and explained why time pressures had made it impossible in the case of the episode regulations, and of the proposed automotive air quality standards. Mr. Dumelle and Mr. Kissel suggested that the Board should be cautious about undertaking substantial new assignments in the next two months, because of its present large work load. Mr. Aldrich asked that a date be scheduled for informal Board discussion of the proposed thermal standards. Mr. Kissel asked Mr. Currie to check into the deadline dates for decision of the many variance cases pending before the Board in order to be certain that the Board had adequate time to consider the cases on their merits.

Mr. Aldrich reported that he had received an inquiry regarding the burning of diseased trees. Mr. Currie observed that the proposed regulations now before the Board on #R70-11 would authorize such burning on the basis of a permit received from the Environmental Protection Agency, but that if permission to burn within the next two months was required, a petition for variance should be filed.

Mr. Romanek reported that he had completed hearings in the Deere & Company and Ozark Mahoning cases, and said the Board was required to act on them before the end of December. He said the Environmental Protection Agency recommended the grant of both variances with a performance bond in the Ozark case.

After discussion, the Board agreed to adhere to the existing meeting schedule which provided for December meetings in Chicago on the 9th and in Rock Island on the 22nd.

The meeting was recessed until 2:30 Wednesday afternoon for a discussion of the Cooling ~~opinion prepared by Mr. Lawton.~~

The meeting was reconvened at 2:30 P.M., December 2. Present were Messrs. Lawton, Aldrich and Currie. Mr. Lawton agreed to certain changes in the Cooling Opinion #70-2, as suggested in Mr. Currie's memorandum of December 2. Mr. Lawton added that he wished to make a few additional changes in the opinion to which the other members present agreed. Mr. Currie said the case would be placed on the agenda for December 9 for final decision. He added that in his view the importance of the case was that it established it was not necessary to demonstrate that the respondent actually lit a match to refuse in order to prove an open burning violation, but that it was sufficient to show that negligence in the handling of waste materials had made fire more likely to occur and more difficult to extinguish.

Mr. Currie said that he would like the Board to consider at its next Monday meeting #70-20, Deere and Co. v. EPA, a request for a variance to permit open burning in the conduct of a fire-fighting school. Upon reading the transcript in this case, he said he believes it desirable to request additional information along the lines suggested in which the memo had prepared and would circulate to members in advance of the next meeting. After further discussion, Mr. Currie agreed to prepare a letter to the Company requesting additional information along the lines suggested in his memorandum, and the matter was placed on the agenda for the December 9 meeting.

Mr. Aldrich expressed concern as to the publicizing of Board opinion for the information of persons engaged in activities similar to those involved in the case. Mr. Lawton pointed out that the Newsletters of the Board contain summaries of opinions which to some degree serve this purpose. Mr. Aldrich observed that the Board's mailing list was limited and suggested that the Environmental Protection Agency ought to mail Board Opinions and other information to persons having or seeking permits for operations of the type involved in the opinion.

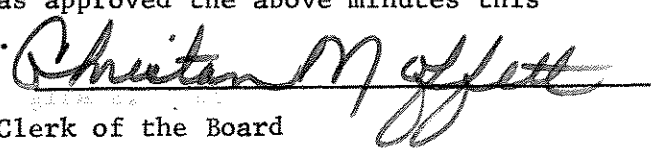
Mr. Currie said that he would ask Mr. Dumelle, the proponent of the mercury regulations #R70-5, to prepare an opinion for Rock Island. Mr. Kissel, who had just come in, said that he expected to have proposed final drafts of the Mississippi River and phosphate standards Nos. R70-3 & 6, ready in time for Board promulgation December 9.

Because several Board members would be attending the Commonwealth Edison Dresden hearing, #70-21, on December 7 the members present agreed that no informal Board meeting would be held on that date. It was further agreed to set aside several days in January for internal Board discussion of the proposed thermal standards for Lake Michigan #R70-2, and Mr. Currie suggested that Board members circulate, in advance of that discussion, memoranda setting forth their initial impressions.

Mr. Currie reported that the Natural Resource Development Board on December 1 had recommended to the Governor that the Environmental Protection Agency be designated as the Agency with authority to certify regional and basin plans for water pollution control for Federal grant purposes. Mr. Currie said that he was not certain whether or not the Environmental Protection Agency was the ideal Agency to exercise this essentially planning function, but added that the Board was not equipped to undertake this function, and that the Institute did not wish to assume powers with such regulatory connotations. He added that Mr. Schneiderman of the Institute favored placing such authority in a State Planning Agency, and noted that the certification of a regional or basin plan does not constrain the Board in the adoption of regulations, but rather that the plan itself will be revised to take account of new standards. The important thing for the Board, he said, was to be sure that some such designation of a certification agent be made in order to protect the right of local governments in this State to receive Federal grants.

Mr. Aldrich inquired whether it remained a good idea for Mr. Lawton and Mr. Kissel to assume a substantial burden as hearing officers. Mr. Lawton said that the time demands of hearing officer service had become excessive in terms of the other requirements on Board members' time. Mr. Currie said that Board members had been appointed as hearing officers in order to save money in the light of the Board's very limited budget, and to give the Board first hand experience in determining the best manner of trying cases. He agreed that it was time to alter this policy, and money permitting, to look outside the Board for hearing officers except in regulation matters and in individual cases of particular significance.

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