

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING
NOVEMBER 15, 1989 CHICAGO, ILLINOIS

All Board Members were present.

An Opinion and Order was adopted in #87-93, Commonwealth Edison, by a vote of 7-0. J. Marlin concurred. (RF)

An Opinion and Order was adopted in #87-127, City of East Moline, by a vote of 7-0. (BF)

An Opinion and Order was adopted in #88-36, Mervis Industries, by a vote of 7-0. (JD)

Board Member J. Theodore Meyer presented a draft Opinion and Order in #89-108, McLean County Disposal. An amendment by J. Anderson was accepted and an amended Opinion and Order was adopted by a vote of 7-0. B. Forcade concurred. (JTM)

An Opinion and Order was adopted in #89-122, Rowe Foundry and Machine, by a vote of 7-0. (JM)

In R89-1, RCRA Update (July 1, 1989 through December 31, 1989), a corrective Order was adopted by a vote of 7-0. (JA)

In R89-7(A), Continuous Monitoring Rules, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. (JD)

In R89-10, UST Update (October 27, 1988 through June 30, 1989), a Proposal for Public Comment, Proposed Opinion and Order was adopted by a vote of 7-0. (JA)

In R89-13(A), IDENR Special Waste Categorization Study, a Proposed Rule, Second Notice, Opinion and Order was adopted by a vote of 4-3. Messrs. J. Dumelle, B. Forcade and M. Nardulli dissented. (JA)

Default Orders were adopted in these Administrative Citations by a vote of 7-0: ##89-208, Turner Brothers Excavating; 89-209, Larry Will; 89-211, City of Palos Hills; 89-212, Stepco Corporation; 89-213, Franklin Olson; 89-216, J & L Pallet Service; 89-217, Melvin Banks; 89-218, G & M Wrecking, Inc.; 89-219, Cedar Siding & Lumber. (Thereafter Chairman Marlin introduced Anand Rao who recently accepted a position with the Board's Scientific/Technical Section)

Respondent's motion to extend the date for filing its closing argument in #AC 88-93, City of Herrin, was denied by a vote of 6-1. J. Dumelle dissented. (JM)

By a vote of 7-0, Respondent's motion to correct misnomer was

granted and because a Petition for Review was received, a hearing will be set in #89-215, Omer Thomas. (JM)

Agency motion to withdraw the complaint in #AC 89-223, Jeannette Childs, was granted by a vote of 7-0. (JM)

In #86-210, Hillview Farms, the Board, on its own motion, requested the parties to provide a status report no later than December 15, 1989 which should specifically include the Complainant's intentions with respect to prosecution of the proceeding or a motion to dismiss the proceeding altogether. The vote was 7-0. (JD)

By a vote of 7-0, an Order was adopted pursuant to a motion for clarification of an October 18, 1989 Board Order in #87-136, Roadmaster Industries. J. Dumelle and J. Anderson concurred. (JTM)

Petitioner's motion for reconsideration of a September 13, 1989 Board Order in #88-98, IBP, Inc., was denied by a vote of 7-0. (BF)

By a vote of 7-0, Petitioner's motion for an extension of time to file its response to the Agency's Recommendation was granted until November 30, 1989 in #89-66, Village of North Aurora. (RF)

By a vote of 7-0, Petitioner's motion for modification of a September 13, 1989 Board Order was granted in #89-79, Joliet Army Ammunition. (MN)

By a vote of 7-0, Petitioner's motion for extension of time was granted until November 30, 1989 in #89-107, City of Geneva. (JM)

Agency motion for leave to file its Recommendation Instanter was granted in #89-131, City of Galva, by a vote of 7-0. (RF)

In R88-25, City of Havana Site-Specific, Petitioner's October 4, 1989 letter to the Board which sets forth the new compliance schedule was construed as a motion for Board comment and admitted into the record as Public Comment #4. The vote was 7-0. (MN)

Petitioner's motion to voluntarily withdraw its petition in #AS 89-4, Safety-Kleen, was granted by a vote of 7-0. (BF)

These cases were discussed and held to December 6, 1989 for further discussion or possible decision: ##AC 88-93, City of Herrin; 88-127, Koppers Company; 89-121, Metropolitan Waste Systems; 89-138, Sam Dimaggio.

Petitioner's motion for summary judgment was granted in part and the Agency's motion for summary judgment was denied in #89-150, Sushi, Ltd., by a vote of 7-0. (JTM)

These regulatory matters were discussed and held to December 6, 1989 for further discussion or possible decision: R81-19, Citizens Utilities Remand; R88-19, Roadmaster Site-Specific; R88-21, Water Toxics Control; R89-12, RCRA Update.

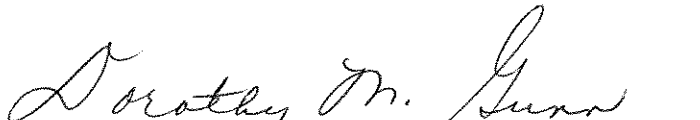
In new cases these actions were taken by a vote of 7-0:
##89-169, John & Jean Zarlenga v. Partnership Concepts et al., Respondent's request for an extension of time to file an answer to the complaint was granted until November 29, 1989, **Order by J. Marlin**; 89-175, Olney Sanitary Systems and Andrew Ochs v. EPA, accepted for hearing, **Order by B. Forcade**; 89-176, Waste Management of Illinois, Inc. v. EPA, accepted for hearing and for each contested condition, the Board expects, and the parties strongly encouraged to state the applicable regulatory law and relevant facts, with appropriate record citations, which demonstrate that a violation is likely or unlikely to occur and motion to appear pro hac vice for Angus Macbeth granted, **Order by B. Forcade**; 89-179, Tony F. and Patricia R. Martin v. Oak Valley Wood Products, **held for Duplicitous/Frivolous determination**; 89-180, EPA v. Colwell/General, Inc., hearing mandatory; 89-181, National Coatings, Inc. v. EPA, accepted for hearing and for each contested condition, the Board expects, and the parties strongly encouraged to state the applicable regulatory law and relevant facts, with appropriate record citations, which demonstrate that a violation is likely or unlikely to occur, **Order by B. Forcade**; 89-182, Robert J. and Alice J. Kvatsak v. St. Michael's Lutheran Church, **held for Duplicitous/Frivolous determination**; 89-183, City of Batavia v. EPA, additional information requested, **Order by J. Marlin**; 89-184, The Grigoleit Company v. EPA, accepted for hearing and the Board will conditionally maintain as Not Subject to Disclosure, the information attached to the petition and the parties were ordered to file briefs, motions or other appropriate pleadings not later than December 15, 1989 to address the issues described in paragraph two of the Order prior to a final ruling on non-disclosure, **Order by B. Forcade**; 89-185, Fedders North America, Inc. v. EPA, provisional variance granted, **Opinion and Order by J. Marlin**; 89-186, EPA v. Bulk Molding Compounds, Inc., hearing mandatory; 89-187, EPA v. UNR-ROHN, Inc. and Robert Penn, as President of UNR-ROHN, Inc., hearing mandatory; 89-188, City of East Moline v. EPA, additional information requested, **Order of the Board by J. Marlin**; AS 89-5, Safety-Kleen Corporation, accepted for hearing.

Because Petitions for Review were filed these Administrative Citations will be set for hearing: ##89-214, Kenneth Pearson; 89-215, Omer Thomas; 89-224, John Vander; 89-230, Ronald Griffith.

These Administrative Citations were received by the Board:
##89-238, Martin Stahling; 89-239, Donald E. Rhodes; 89-240, Great River Mix, Inc.; 89-241, Simmons Airlines, Inc.; 89-242, City of Rutland; 89-243, County of Whiteside; 89-244, Ed Timmons; 89-245, Bob White; 89-246, Morris Ray; 89-247, Kissner Company; 89-248, Leroy Brown & Sons, Inc.; 89-249, Dan Bland.

Minutes of these Board Meetings were approved by a vote of 7-0:
November 2 and November 8, 1989.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control
Board, hereby certify that the above Minutes were approved this
6th day of December, 1989 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

**** PLEASE NOTE ROOM CHANGE FOR THIS BOARD MEETING ONLY ****

**ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
NOVEMBER 15, 1989 CHICAGO, ILLINOIS
** CONFERENCE ROOM 9-031 **
10:30 A.M.**

DECISIONS:

- 87-93 Commonwealth Edison (RF) _____
- * 87-127 City of East Moline (BF)(due) _____
- 88-36 Mervis Industries (JD) _____
- * 89-108 McLean County Disposal (JTM)(due) _____
- * 89-122 Rowe Foundry & Machine (JM)(due) _____
- R89-1 RCRA Update (July 1, 1989 through December 31, 1989),
Corrective Order - Final Adoption (JA)

- R89-7 Continuous Monitoring Rules, Adopted Rule, Final Order,
(A) Opinion and Order (JD) _____
- R89-10 UST Update (October 27, 1988 through June 30, 1989),
Proposal for Public Comment, Proposed Opinion and Order
(JA) _____
- R89-13 IDENR Special Waste Categorization Study, Proposed Rule,
(A) Second Notice, Opinion and Order (JA)

AC DECISIONS:

- 89-208 Turner Brothers Excavating, Inc. _____

*** INDICATES VARIANCE OR PERMIT APPEAL**

AC DECISIONS: (Cont'd)

89-209 Larry Will _____
89-211 City of Palos Hills _____
89-212 Stepco Corporation _____
89-213 Franklin Olson _____
89-216 J & L Pallet Service _____
89-217 Melvin Banks _____
89-218 G & M Wrecking, Inc. _____
89-219 Cedar Siding & Lumber, Inc. _____

AC MOTIONS:

88-76 E & E Hauling - County of DuPage response to September
88-77 13, 1989 Board Order (10/16), Agency response to
September 13, 1989 Board Order (10/17), Respondent's
Memorandum regarding hearing costs and reply to
Complainant's request for costs (10/30)(JA)

88-93 City of Herrin - Respondent's motion to extend date for
filing closing argument (11/9)(JM) _____
89-171 City of Paxton - Agency motion to proceed to decision by
submittal of written legal argument to the Board without
hearing (10/16), Respondent's response to Agency motion
to proceed to decision by submittal of written legal
argument to the Board without hearing (11/13)

89-191 Adolph Lo - Respondent's petition to reopen docket
(11/13)(Note: Default Order entered at October 18, 1989
Board Meeting) _____
89-196 Wayne D. Molen - Farmers and Merchants State Bank motion
for reconsideration (11/13)(See November 2, 1989 Board
Order) _____
89-215 Thomas Omer - Respondent's motion to correct misnomer
(11/1)(Note: See also Respondent's Petition for Review
filed 11/1) _____
89-223 Jeannette Childs - Agency motion to withdraw complaint
and dismiss action (11/2) _____

AC MOTIONS: (Cont'd)

89-235 Dan Koch - Complainant's motion to dismiss (11/6)

MOTIONS:

86-210 Hillview Farms - Status Report Board Order (JD)

87-136 Roadmaster Industries - Petitioner's motion for clarification of October 18, 1989 Board Order (10/27)(JTM)

88-98 IBP, Inc. - Petitioner's motion for reconsideration of September 13, 1989 Order (10/18), Agency response to Petitioner's motion for reconsideration (11/1)(BF)

89-19 Sheridan South Condominium - Complainants motion to compel (6/30)(JA)

89-66 Village of North Aurora - Petitioner's motion for extension of time (10/27)(RF)

89-79 Joliet Army Ammunition - Petitioner's motion for modification of September 13, 1989 Order (10/26)(MN)

89-107 City of Geneva - Petitioner's motion for extension of time (10/27)(JM)

89-131 City of Galva - Agency motion for leave to file Recommendation Instanter (11/2)(MN)

89-139 City of Chenoa - Agency motion for leave to file Recommendation Instanter (11/13)(RF)

89-149 Consolidation Coal - Respondent's response to September 28, 1989 Board Order (10/20), Petitioner's response to September 28, 1989 Board Order (11/3), Respondent's Reply Brief (11/13)

89-150 Sushi, Ltd. - Petitioner's motion for summary judgment (11/3), Agency response to Petitioner's motion for summary judgment and motion for summary judgment and Memorandum in support thereof (11/13)

MOTIONS: (Cont'd)

R88-25 City of Havana Site-Specific - letter construed as motion for Board comment (10/4), Agency response to October 18, 1989 Board Order (11/1)(MN)

AS 89-4 Safety-Kleen - Petitioner's motion to voluntarily withdraw petition (11/8)

DISCUSSIONS:

AC 88-93 City of Herrin (JM)

88-127 Koppers Company (JD)

* 89-121 Metropolitan Waste Systems (MN)(due 12/6)

* 89-138 Sam Dimaggio (BF)(due 1/25)

REGULATORY DISCUSSIONS:

R81-19 Citizens Utilities Remand (JD)

R88-19 Roadmaster Site-Specific, Proposed Rule, Second Notice, Opinion and Order (BF)

R88-21 Water Toxics Control, Proposed Rule, Second Notice, Opinion and Order (RF)

NEW CASES:

89-169 John & Jean Zarlenga v. Partnership Concepts, Howard Edison, Bruce McClarien, Cove Development Company, Thomas O'Brien (See also Respondents' Motion to Dismiss or Strike Complaint filed 10/26 and Respondent's request for extension of time to file an answer to the complaint filed 11/13)

89-175 Olney Sanitary Systems and Andrew Ochs v. EPA (BF)

89-176 Waste Management of Illinois, Inc. v. EPA (See also motion to appear Pro Hac Vice 11/2) (BF)

89-179 Tony F. and Patricia R. Martin v. Oak Valley Wood Products

NEW CASES: (Cont'd)

- 89-180 People of the State of Illinois v. Colwell/General, Inc.

- 89-181 National Coatings, Inc. v. EPA (BF)

- 89-182 Robert J. and Alice J. Kvatsak v. St. Michael's Lutheran Church

- 89-183 City of Batavia v. EPA

- 89-184 The Grigoleit Company v. EPA (See also Application for Non-Disclosure)

- 89-185 Fedders-USA v. EPA (Provisional Variance)(JM)

- 89-186 People of the State of Illinois v. Bulk Molding Compounds, Inc., and J.E.C., Inc.

- 89-187 People of the State of Illinois v. UNR-ROHN, Inc., and Robert Penn, as President of UNR-ROHN, Inc.

- 89-188 City of East Moline v. EPA

AC APPEALS:

- 89-214 Kenneth Pearson

- 89-224 John Vander

- 89-230 Ronald Griffith

NEW AC CASES:

- 89-238 Martin Stahling

- 89-239 Donald E. Rhodes

- 89-240 Great River Ready Mix, Inc.

- 89-241 Simmons Airlines, Inc.

- 89-242 City of Rutland

- 89-243 County of Whiteside

NEW AC CASES: (Cont'd)

- 89-244 Ed Timmons _____
 - 89-245 Bob White _____
 - 89-246 Morris Ray _____
 - 89-247 Kissner Company _____
 - 89-248 Leroy Brown & Sons, Inc. _____
 - 89-249 Dan Bland _____
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MINUTES:

- November 2, 1989 _____
- November 8, 1989 (Special Board Meeting) _____

PENDING CASES ASSIGNED:

85-95 Citizens Utilities (Remand)(JTM)(open waiver)
* 85-166 Citizens Utilities (JTM)(open waiver)
86-56 Trilla Steel Drum (Remand)(JD)
86-161 Elizabeth Street Foundry (JD)
* 86-180 The Ceco Corporation (BF)(open waiver)
87-89 Cargill (Remand)(JM)
* 87-131 Amerock Corporation (JTM)(open waiver)
87-139 Browning-Ferris (JD)
87-209 Commonwealth Edison Company (JA)
AS 88-2 Stepan Company(JM)
* 88-25 Modine Manufacturing (JA)(open waiver)
88-71 Allen Barry (BF)
AC 88-76 E & E Hauling (JA)
AC 88-77 E & E Hauling (JA)
AC 88-90 James Esarey (JM)
* 88-151 Citizens Utilities (RF)(due 3/8)
88-173 Village of Lake Zurich (JTM)
* 88-195 McLean County Disposal (JTM)(open waiver)
88-199 Seegers Grain (JM)
88-207 Central Illinois Public Service (MN)
* 89-5 Arco Products (RF)(due 1/25)
AC 89-18 J & R Landfill (RF)
89-29 Village of Fox River Grove (BF)
* 89-41 Old Ben Coal (JA)(due 12/20)
89-42 Old Ben Coal (JA)(due 12/20)
89-53 Lefton Iron & Metal (MN)
* 89-66 Village of North Aurora (RF)(due 1/25)
89-64 Gallagher Blacktop (BF)
89-69 Klausung Tree Service (BF)
* 89-104 Metropolitan Waste Systems (JD)(due 2/8)
* 89-107 City of Geneva (JM)(due 2/22)
AC 89-109 Fairview Heights (JA)
* 89-130 Village of Malta (JM)(due 1/11)
* 89-131 City of Galva (MN)(due 12/20)
AC 89-131 ESG Watts, Inc. (MN)
* 89-139 City of Chenoa (RF)(due 1/25)
* 89-140 City of Minonk (MN)(due 3/8)

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
NOVEMBER 15, 1989 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-031
10:30 A.M.

ADDENDUM

ADJUSTED STANDARDS:

89-5 Safety-Kleen Corporation _____