ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING DECEMBER 6, 1989 CHICAGO, ILLINOIS

All Board Members were present save J. Theodore Meyer who was on vacation.

An Opinion and Order was adopted in #AC 88-93, City of Herrin, by a vote of 6-0. (JM)

An Opinion and Order was adopted in #89-69, Klausing Tree Service, by a vote of 6-0. (BF)

In R84-12, Trihalomethanes, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 6-0. (JD)

In R88-21(A), Water Toxics Control, a Proposed Rule, Second Notice, Proposed Opinion and Order was adopted by a vote of 6-0. J. Dumelle concurred. (RF)

In R88-21(B), Water Toxics Control, a Proposed Rule, First Notice, Proposed Opinion and Order was adopted by a vote of 6-0. Messrs. J. Dumelle and B. Forcade concurred. (RF)

In R89-9, RCRA Update (January 1, 1989 through June 30, 1989), a Proposal for Public Comment, Proposed Opinion and Order was adopted by a vote of 6-0. (JA)

In R89-12, Pretreatment Update (January 1, 1989 through June 30, 1989), a Proposal for Public Comment, Proposed Opinion and Order was adopted by a vote of 6-0. (JA)

Default Orders were adopted in these Administrative Citations by a vote of 6-0: ##89-220, First Illinois Bank and Trust et al.; 89-221, Maddox Construction Company; 89-222, Paul Seebold, Sr.; 89-225, City of Rochelle; 89-228, Sidney Collins; 89-229, Robert Wood; 89-232, Martin Nettemeyer; 89-233, Clarence Hart; 89-234, Olen Spurgeon.

In #AC 89-237, Gary Jacobs, an Order construing Respondent's November 16, 1989 letter to the Board as a Petition for Review and directing the Clerk's office to send a copy of Respondent's letter to the Agency and a copy of the Environmental Protection Act and the Board's Procedural Rules to the Respondent, and ordering the Agency to file its response to Respondent's petition by December 15, 1989 in order that the Board may consider this matter further at its December 20, 1989 meeting, was adopted by a vote of 6-0. (JM)(Thereafter Chairman Marlin introduced Margaret Fliss as the new assistant to Board Member B. Forcade and announced that Debbie Schmitt has accepted a position with the USEPA and would be leaving the Board as of December 15, 1989, and that he has hired a new assistant)

Board Member B. Forcade presented a draft Proposed Rule, Second Notice, Opinion and Order in R88-19, Roadmaster Site-Specific. Amendments by J. Anderson were accepted and an amended Proposed Rule, Second Notice, Opinion and Order was adopted by a vote of 6-0. (BF)

Board Member M. Nardulli presented a draft Opinion and Order in #89-121, Metropolitan Waste Systems. Motion to amend by J. Dumelle and seconded by R. Flemal failed to carry by a vote of 3-3. Thereafter, the following actions were taken: the Opinion and Order were voted on separately. The Order affirming the City's denial of site location approval was adopted by a vote of 6-0; the Opinion regarding Criterion 1 and 2 were voted on separately. That part of the Opinion, excluding those portions addressing Criterion 1, was adopted by a vote of 6-0; that part of the Opinion addressing Criterion 1 failed to pass, the Board being deadlocked at a 3-3 vote. As a statutory majority of 4 votes could not be mustered for any written Opinion, there is no Opinion of the Board as to the Criterion 1 issue in this case. (MN)

Complainant's motion to vacate a June 22, 1989 Default Order and dismiss the action was granted in #AC 89-88, John Timpe, by a vote 6-0. (JM)

By a vote of 6-0, an Order was adopted pursuant to Respondent's motion to vacate a July 27, 1989 Default Order in #AC 89-132, Ray Schroeder. (JM)

By a vote of 6-0, an Order was adopted pursuant to Respondent's motion for relief from a November 2, 1989 Default Order in #AC 89-164, Kemp Manufacturing Company. (JM)

Agency motion to proceed to decision by submittal of written legal argument to the Board without hearing was granted in #AC 89-171, City of Paxton, by a vote of 6-0. (JM)

By a vote of 6-0, an Order was adopted pursuant to Respondent's petition to reopen the docket in #89-191, Adolph Lo. (JM)

By a vote of 6-0, an Order was adopted pursuant to Respondents Farmers and Merchants State Bank's motion for reconsideration in #AC 89-196, Wayne D. Molen. (JM)

By a vote of 6-0, an Order was adopted pursuant to Respondent's motion to vacate/reconsider an October 18, 1989 Default Order in #AC 89-201, Fred Gocey. (JM)

Agency motion to withdraw the complaint and dismiss the action in #AC 89-226, Village of Elizabeth, was granted by a vote of 6-0. (JM)

By a vote of 6-0, an Order was adopted pursuant to Respondent's letter dated November 16, 1989 in #AC 89-237, Gary W. Jacobs. (JM)

Agency motion to withdraw the complaint and dismiss the action was granted in #AC 89-251, City of Benld, by a vote of 6-0. (JM)

By a vote of 6-0, an Order was adopted pursuant to Petitioner's motion to modify permit in #85-137, Fred Jurcak. (MN)

An Order requesting the parties to provide a status report of the proceedings in #86-93, Jennison-Wright, no later than December 31, 1989, was adopted by a vote of 6-0. (JD)

An Order requesting the parties to provide a status report of the proceedings in #87-105, Bloomington and Normal Sanitary District, no later than January 5, 1990, was adopted by a vote of 6-0. (JD)

Petitioner's motion for leave to appear by Peter C. Wright was granted in #87-201, Monsanto Company, by a vote of 6-0. (JM)

By a vote of 6-0, an Order was adopted pursuant to Petitioner's motion for extension of variance in #88-69, Scott Air Force Base. (JM)

Joint motion to dismiss was granted in #88-148, City of St. Charles, by a vote of 6-0. (BF)

Petitioner's joint motion to remand permit appeal to the Agency was granted in #88-157, Archer Daniels-Midland, by a vote of 6-0. (BF)

By a vote of 6-0, joint motion to stay the proceedings in #89-78, Moline Corporation, was granted until March 1, 1990. (JM)

Petitioner's motion for voluntary dismissal in #89-123, Horsehead Resource Development, was granted by a vote of 6-0. (BF)

By a vote of 6-0, Agency motion for extension of time to file its recommendation in #89-140, City of Minonk, was granted until January 15, 1990. (MN)

An Order dismissing the proceedings in #89-149, Consolidation Coal, was adopted by a vote of 6-0. (JA)

By a vote of 6-0, an Agency motion for leave to file its Administrative Record Instanter was granted in #89-175, Olney Sanitary Systems. (JM)

By a vote of 6-0, an Order was adopted pursuant to Petitioner's letter dated November 13, 1989 seeking to transfer its site-specific rule to a successor company in R84-13, Union Oil Company

of California. (JM)

By a vote of 6-0, an Order was adopted pursuant to an amended motion by the Illinois Environmental Regulatory Group requesting USEPA attendance at hearings in R89-16, RACT Deficiencies. (JD)

An Order requesting the parties to submit another status report by February 9, 1990 in AS 88-2, Stepan Company, was adopted by a vote of 6-0. (JM)

These cases were discussed and held to December 20, 1989 for further discussion or possible decision: ##89-5, Arco Products; 89-41, Old Ben Coal; 89-42, Old Ben Coal; 89-131, City of Galva; 89-138, Sam Dimaggio.

This amended petition was accepted and the 120 day decision time clock restarted with its filing: #89-130, Village of Malta.

In new cases these actions were taken by a vote of 6-0: ##89-169, John and Jean Zarlenga v. Partnership Concepts, Howard Edison, Bruce McClarien, Cove Development Company, Thomas O'Brien, accepted for hearing and Respondents' motion to dismiss was denied, Order by J. Marlin; 89-179, Tony and Patricia Martin v. Oak Valley Wood Products, accepted for hearing; 89-182, Robert and Alice Kvatsak v. St. Michael's Lutheran Church, held for Duplicitous/Frivolous Determination; 89-189, The Jennison-Wright Corporation v. EPA, accepted for hearing and the Board will not rule on Respondent's motion for dismissal of permit appeal until the Petitioner has had an opportunity to respond, Order by B. Forcade; 89-190, EPA v. Ravenswood Health Enterprises, Inc., hearing mandatory; 89-191, EPA v. Calumet Armature Electric, hearing mandatory; 89-192, EPA v. Northrop Corporation, hearing mandatory; 89-193, Motorola, Inc. v. EPA, accepted for hearing, Agency directed to file with the Board as soon as possible any notice list it may have developed during the process of issuing this permit, and Petitioner advised that its open waiver of decision deadline not subject to revocation until June 1, 1990 was construed as a limited waiver until June 1, 1990 (an additional 65 days), Order by B. Forcade; 89-194, Modern Foundry v. EPA, provisional variance granted, Opinion and Order by J. Marlin; 89-195, Bulk Molding Compounds, Inc. v. EPA, accepted for hearing, Order by B. Forcade; 89-196, Mead Packaging Division v. EPA, provisional variance granted, Opinion and Order by J. Marlin; 89-197, BFI/Davis Junction v. EPA, provisional variance granted, Order by J. Marlin; 89-198, Trailmobile v. EPA, provisional variance granted, Order by J. Marlin; 89-199, Shell Oil Company v. EPA, provisional variance granted, Order by J. Marlin.

Because Petitions for Review were received, these Administrative Citations will be set for hearing: ##89-231, Leon Lamet; 89-239, Donald Rhodes; 89-247, Kissner Company.

These Administrative Citations were received by the Board: ##89-250, Selby Implement Company, Inc.; 89-251, City of Benld; 89-252, Ray and Joe Richter; 89-253, City of Freeport; 89-254, Jim Roberts; 89-255, ESG Watts, Inc.; 89-256, Willie German and the City of Mounds; 89-257, Everett Allen; 89-258, Donald Taylor; 89-259, Ed Burris; 89-260, Argonne National Laboratory; 89-261, City of Colchester; 89-262, Witvoet Trucking Company, Inc.; 89-263, Village of Hanover and Patrick Farrell; 89-264, Larry Talbert; 89-265, Bernard Halloran; 89-266, Darco, Inc.; 89-267, Joan Howarth; 89-268, William & Betty Jayne; 89-269, Antonio Delgrosso; 89-270, S & S Ventures, Inc.; 89-271, Obediah Black; 89-272, Central Illinois Tile Company; 89-273, Burlington Northern Railroad; 89-274, Bi-State Disposal Company Company, Inc.; 89-275, Quantum Chemical Corporation.

Minutes of the November 15, 1989 Board Meeting were approved by a vote of 6-0.

All other matters not disposed of as listed were ordered held to December 20, 1989 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this day of Secondary, 1989 by a vote of 7-0

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD FINAL AGENDA DECEMBER 6, 1989 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 A.M.

DECISIONS: City of Herrin (JM)_____ 88-93 AC Koppers Company (JD)_____ 88-127 89-69 Klausing Tree Service (BF) Metropolitan Waste Systems (MN)(due) 89-121 Trihalomethanes PWS, Adopted Rule, Final Order, Opinion R84-12 and Order (JD) Roadmaster Site-Specific, Proposed Rule, Second Notice, R88-19 Opinion and Order (BF) Water Toxics Control, Proposed Rule, Second Notice, R88-21 Proposed Opinion and Order (RF)_____ (A) Water Toxics Control, Proposed Rule, First Notice, R88-21 Proposed Opinion and Order (RF) (B) RCRA Update (January 1, 1989 through June 30, 1989), Proposal for Public Comment, Proposed Opinion and Order R89-9 (JA) Pretreatment Update (January 1, 1989 through June 30, R89-12 1989), Proposal for Public Comment, Proposed Opinion and Order (JA) AC DECISIONS: 89-220 First Illinois Bank & Trust et al. Maddox Construction Company_____ 89-221

^{*} INDICATES VARIANCE OR PERMIT APPEAL

AC DECISIONS: (Cont'd)		
89-222	Paul Seebold, Sr	
89-225	City of Rochelle	
89-227	Jack Wright (NOTE: Respondent's Petition for Review should have been filed no later than November 24, 1989; Respondent's Petition for Review dated November 24, 1989 and received at the Board November 28, 1989 shows no proof of service and the envelope is not available)	
89-228	Sidney Collins	
89-229	Robert Wood	
89-232	Martin Nettemeyer	
89-233	Clarence Hart	
89-234	Olen Spurgeon	
AC MOTION	<u>ls</u> :	
88-76 88-77	E & E Hauling - County of DuPage response to September 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)	
89-88	John Timpe - Complainant's motion to vacate June 22, 1989 Default Order and dismiss action (11/16)	
89-122	Stryker International - Agency motion to amend Administrative Citation (12/4)	
89-132	Ray Schroeder - Respondent's motion to vacate July 27, 1089 Default Order (11/28)	
89-164	<pre>Kemp Manufacturing - Respondent's motion for relief from November 2, 1989 Default Order (11/17)</pre>	
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)	

AC MOTIO	NS: (Cont'd)
89-175	Stryker International - Agency motion to amend Administrative Citation (12/1)
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), Agency response to November 2, 1989 Board Order (11/27), Farmers and Merchants State Bank's response to Agency response to November 2, 1989 Board Order (12/4)
89-201	Fred Gocey - Respondent's motion to vacate/reconsider October 18, 1989 Default Order (11/27)
89-218	G.M. Wrecking Company - Respondent's petition to vacate November 15, 1989 Board Order (12/4)
89-226	Village of Elizabeth - Agency motion to withdraw complaint and dismiss action (11/27)
89-237	Gary W. Jacobs - See letter dated November 16, 1989, Agency motion to amend typographical error in Respondent's name (11/21)
89-251	City of Benld - Agency motion to withdraw complaint and dismiss action (11/27)
MOTIONS:	
85-137	Fred Jurcak - Petitioner's motion to modify October 27, 1989 Agency permit issued to Petitioner (12/4)(MN)
86-93	<u>Jennison-Wright</u> - status report Order (JD)
87-105	Bloomington & Normal S.D status report Order (JD)
87-201	Monsanto Company - Petitioner's motion for leave to appear (11/22)
88-69	Scott AFB - motion for extension of variance (12/1)

MOTIONS:	(Cont'd)
88-148	City of St. Charles - joint motion to dismiss (12/1)(BF)
88-157	Archer-Daniels-Midland - Petitioner's joint motion to remand permit appeal to the Environmental Protection Agency for further consideration (11/16)(BF)
89-19	Sheridan South Condominium - Complainants motion to compel (6/30), Respondent's answer to Complainant's motion to compel (11/13), Complainant's reply to Respondent's answer to Complainant's motion to compel (12/4)(JA)
89-78	<pre>Moline Corporation - resubmitted joint motion to stay proceedings (11/6)(Note: statutory decision date waived until July 1, 1990)(JM)</pre>
89-95	Environmental Reclamation - Petitioner's motion for summary judgment and Memorandum of Law in support (11/17), Agency response to Petitioner's motion for summary judgment (11/27)
89-123	<pre>Horsehead Resource Development - Petitioner's motion for voluntary dismissal (11/16)(BF)</pre>
89-140	City of Minonk - Agency motion for extension of time to file Agency Recommendation (11/22)(MN)
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)
89-175	Olney Sanitary Systems - Agency motion for leave to file Administrative Record of Permit Application Instanter (11/22)
R84-13	Union Oil Company - Letter dated November 13, 1989 (JM)
R88-14	Abbott Laboratories - Petitioner's amended petition for rulemaking and motion for expedited hearing (12/4)(JD)
R89-16	RACT Deficiencies - amended motion of IERG requesting USEPA attendance at hearings (11/29)(JD)
88-2	Stepan Company - joint response to November 2, 1989 Interim Order (11/27)(JM)

DISCUSSIONS:

*	89-5	Arco Products	(RF)(due	2 1/25)

- 89-41 Old Ben Coal (JA)(due 12/20)_____
- * 89-42 Old Ben Coal (JA)(due 12/20)_____
- * 89-131 City of Galva (MN)(due 12/20)_____
- * 89-138 Sam Dimaggio (BF)(due 1/11)_____

AMENDED PETITIONS:

89-130 Village of Malta (filed 11/29)_____

NEW CASES:

- 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 (10/26), Complainant's response to Respondent's motion to dismiss (11/16))
- 89-179 Tony F. and Patricia R. Martin v. Oak Valley Wood Products_____
- 89-182 Robert J. and Alice J. Kvatsak v. St. Michael's Lutheran Church_____
- The Jennison-Wright Corporation v. EPA (See also Agency motion for dismissal of permit appeal filed 12/4)(BF)
- 89-190 EPA v. Ravenswood Health Enterprises, Inc.
- 89-191 EPA v. Calumet Armature Electric
- 89-192 EPA v. Northrop Corporation____
- 89-193 Motorola, Inc. v. EPA (See also motion for extension of hearing dates filed 11/28)(BF)
- 89-194 Modern Foundry v. EPA (Provisional Variance)(JM)

NEW CASES: (Cont'd)		
89-195	Bulk Molding Compounds, Inc. v. EPA (BF)	
89-196	Mead Packaging Division v. EPA (Provisional Variance)	
89-197	BFI/Davis Junction v. EPA (Provisional Variance) (JM)	
89-198	Trailmobile v. EPA (Provisional Variance) (JM)	
89-199	Shell Oil Company v. EPA (Provisional Variance) (JM)	
R89-18	Calumet Industries, Inc. (JM)	
AC APPEAL		
89-231	Leon Lamet	
89-239	Donald Rhodes	
89-247	Kissner Company	
NEW AC CA	SES:	
89-250	Selby Implement Company, Inc.	
89-251	City of Benld	
89-252	Ray and Joe Richter	
89-253	City of Freeport	
89-254	Jim Roberts	
89-255	ESG Watts, Inc.	
89-256	Willie German & the City of Mounds	
89-257	Everett Allen	
89-258	Donald Taylor	
89-259	Ed Burris	
89-260	Argonne National Laboratory	

NEW AC CA	<u>ses:</u> (cont d)
89-261	City of Colchester
89-262	Witvoet Trucking Company, Inc.
89-263	Village of Hanover & Patrick Farrell
89-264	Larry Talbert
89-265	Bernard Halloran
89-266	Darco, Inc.
89-267	Joan Howarth
89-268	William & Betty Jayne
89-269	Antonio Delgrosso
89-270	S & S Ventures, Inc.
89-271	Obediah Black
89-272	Central Illinois Tile Company
89-273	Burlington Northern Railroad
89-274	Bi-State Disposal Company, Inc.
89-275	Quantum Chemical Corporation
MINUTES:	
November	15 1989

-8-

PENDING CASES ASSIGNED:

*	85-95	Citizens Utilities (Remand)(JTM)(open waiver)
*	85-166	Citizens Utilities (JTM)(open waiver) Trilla Steel Drum (Remand)(JD)
	86-56	Elizabeth Street Foundry (JD)
*	86-161	The Ceco Corporation (BF)(open waiver)
	86-180 87-89	Cargill (Remand)(JM)
*	87-131	Amerock Corporation (JTM)(open waiver)
	87-139	Browning-Ferris (JD)
	87-191	Lefton Iron & Metal (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)
	88-77	E & E Hauling (JA)
	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)
	89-2	Elizabeth Street Foundry (JD)
AC	89-18	J & R Landfill (RF)
	89-29	Village of Fox River Grove (BF)
	89-53	Lefton Iron & Metal (MN)
•	89-66	Village of North Aurora (RF)(due 1/25)
	89-64	Gallagher Blacktop (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)
*	89-114	Safety-Kleen Corporation (BF)(due 3/8)
	89-130	Village of Malta (JM)(due 3/22)
AC *	89-131	ESG Watts, Inc. (MN)
	89-139 89-140	City of Chenoa (RF)(due 1/25)
AC		City of Minonk (MN)(due 5/10) John Gordon (BF)
AC	89-156	JOHN GOLGON (DE)