

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING  
NOVEMBER 2, 1989 CHICAGO, ILLINOIS

All Board Members were present save Dr. Flemal who was attending a groundwater conference. Chairman Marlin called the meeting to order and announced the following staff changes: John Vandlik, resigned to accept a position with the U.S. Forest Service; Elizabeth Handsel, a new attorney; Phillip Van Ness, will become the inter-governmental legislative liaison attorney and Anand Rao (no relation to Dr. Harish Rao) has accepted a position with the Board's Scientific Technical Section.

An Interim Order was adopted in #AS 88-2, Stepan Company, by a vote of 6-0. (JM)

Board Member M. Nardulli presented a draft Opinion and Order in #88-172, Allied Signal. An amendment by J. Dumelle was accepted and the Opinion and Order was adopted by a vote of 6-0. (MN)

An Opinion and Order was adopted in #88-191, Testor Corporation, by a vote of 5-1. B. Forcade dissented. (JTM)

An Opinion and Order was adopted in #89-102, Reilly Industries, by a vote of 6-0. (JA)

In R89-7(A), Repeal of New Source Performance Standards and Hazardous Air Pollutant Rules, a Proposed Rule, First Notice, Opinion and Order was adopted by a vote of 6-0. (JD)

Default Orders were adopted in these Administrative Citations by a vote of 6-0: #89-164, Kemp Manufacturing; Bi-State Disposal; 89-205, Otto Baer; 89-206, Witvoet Trucking Company; 89-207, Chicago Heights Refuse Depot.

Agency motion to withdraw was granted in #AC 87-38, John and Diann Lybarger, by a vote of 6-0. (JM)

Agency motion to withdraw complaint and dismiss action was granted in #AC 89-147, John Buris, Jr., by a vote of 6-0. (JM)

By a vote of 6-0, an Order was adopted pursuant to an Agency motion to proceed to decision by submittal of written legal argument to the Board without a hearing in #AC 89-171, City of Paxton. (BF) (Thereafter, per J. Theodore Meyer's request, a further discussion was held in #AC 89-147, John Buris)

Respondent's motion to vacate a September 28, 1989 default Order in #AC 89-178, City of Harvey, was denied by a vote of 4-2. Messrs. J. Dumelle and M. Nardulli dissented. (JM)

By a vote of 6-0, the Board construed Respondents October 30,

1989 letter as a motion for reconsideration of an October 18, 1989 Board Order in #AC 89-196, Wayne D. Molen. The Respondents were directed to refile, within ten days, a motion for reconsideration together with proof of service on the Agency and supporting affidavits as to any facts not of record that it wishes to assert and the Agency shall, within ten days from the date of any motion for reconsideration, file its response. (JM)

Agency motion to withdraw complaint and dismiss action was granted in #AC 89-210, Raymond Tangman, by a vote of 6-0. (JM)

By a vote of 6-0, an Order was adopted pursuant to Respondents Moss-American and Kerr-McGee's motion for clarification of a September 28, 1989 Board Order in #87-191, Lefton Iron and Metal Company. (JTM)

In #88-122, Waste Management, an Order directing the parties to submit a second status report on or before December 15, 1989 which is to include a statement as to whether and when this matter will proceed to hearing, was adopted by a vote of 6-0. (JA)

By a vote of 4-2, Agency motion for extension of time to file its recommendation was granted until November 3, 1989 and Petitioner's motion for continuance of a November 8, 1989 hearing in #88-193, General Motors, was granted and the Hearing Officer was directed to expeditiously reschedule a hearing. Messrs. B. Forcade and J. Theodore Meyer dissented. (JM)

By a vote of 6-0, Petitioner's motions to consolidate and to modify the August 31 and September 13, 1989 Board Orders respectively in ##88-203, -89-83, American National Can, were granted and the prior variances extended through April 1, 1990. (MN)

By a vote of 6-0, an Order was adopted pursuant to Respondent's motions to vacate a September 28, 1989 Board Order and to dismiss in #89-19, Sheridan South Condominium Association. (JA)

Petitioner's motion for leave to file its motion for modification of a September 13, 1989 Board Order Instantner was granted in #89-79, Joliet Army Ammunition, by a vote of 6-0. (MN)

Petitioner's motion for leave to file an oversized Brief Instantner was granted in #89-121, Metropolitan Waste Systems, by a vote of 6-0. (MN)

Petitioner's motion to voluntarily withdraw its pending permit appeal was granted in #89-132, Safety-Kleen, by a vote of 6-0. (BF)

Petitioner's stipulation and motion for dismissal was granted in #89-137, W.R. Grace and Company. The Board noted that the stipulation contained various conditions which were agreed to by

the parties, but took no position whatsoever on these conditions. The vote was 6-0. (BF)

By a vote of 6-0, Petitioner's motion for extension of time to respond to a September 28, 1989 Board Order was granted until November 23, 1989 in #89-149, Consolidation Coal. (JM)

By a vote of 6-0, an Order was adopted pursuant to a motion to substitute comments Instanter filed by the Illinois Steel Group in R89-13(A), IDENR Special Waste Categorization Study. (JA)

These cases were discussed and held to November 15, 1989 for further discussion or possible decision: ##87-93, Commonwealth Edison; 87-127, City of East Moline; 88-36, Mervis Industries; 89-108, McLean County Disposal; 89-122, Rowe Foundry and Machine.

This regulatory matter was discussed and held to November 15, 1989 for further discussion or possible decision: R89-7(A), Continuous Monitoring Rules, Adopted Rule, Final Opinion and Order.

In new cases these actions were taken by a vote of 6-0: #89-168, Phyllis A. Daidone et al. v. Lexington Square, accepted for hearing; 89-169, John and Jean Zarlenga v. Partnership Concepts et al., held for Duplicitous/Frivolous determination and Complainants granted until November 16, 1989 to file a response to Respondent's motion to strike or dismiss the complaint, Order by J. Marlin; 89-170, Centralia Environmental Services, Inc. v. EPA, accepted for hearing and Petitioner advised that the Board will attempt to schedule the hearing as expeditiously as possible in response to its request for an emergency hearing on the issues, Order by B. Forcade; 89-171, Pekin Energy Company v. EPA, accepted for hearing, Order by B. Forcade; 89-172, City of Centralia v. EPA, provisional variance granted, Opinion and Order by J. Marlin; 89-173, Clinton/Illinois Power v. EPA, provisional variance granted, Order by J. Marlin; 89-174, Crescent Plating Works, Inc. v. EPA, provisional variance granted, Order by J. Marlin.

These Administrative Citations were received by the Board: #89-225, City of Rochelle; 89-226, Village of Elizabeth; 89-227, Jack Wright; 89-228, Sidney Collins; 89-229, Robert Wood; 89-230, Ronald Griffith; 89-231, Leon Lamet; 89-232, Martin Nettemeyer; 89-233, Clarence Hart; 89-234, Glen Spurgeon; 89-235, Dan Koch; 89-236, Gene Yates; 89-237, Gary W. Jacobs.


Minutes of the following Board Meetings were approved by a vote of 6-0: October 18 and October 27, 1989.

The Board will hold a Special Board Meeting on Wednesday, November 8 or Thursday, November 9, 1989. The Clerk will post a notice.

All other matters not disposed of as listed were ordered held to

November 15, 1989 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 15<sup>th</sup> day of November, 1989 by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD  
FINAL AGENDA  
NOVEMBER 2, 1989 CHICAGO, ILLINOIS  
CONFERENCE ROOM 9-040  
10:30 A.M.

DECISIONS:

- AS 88-2 Stepan Company, Interim Order (JM) \_\_\_\_\_
- \* 88-172 Allied-Signal (MN)(due 11/15) \_\_\_\_\_
- \* 88-191 Testor Corporation (JTM)(due 11/15) \_\_\_\_\_
- \* 89-102 Reilly Industries (JA)(due) \_\_\_\_\_
- R89-7 Repeal of New Source Performance Standards and  
(B) Hazardous Air Pollutant Rules, Proposed Rule, First  
Notice, Opinion and Order (JD) \_\_\_\_\_
- R89-13 IDENR Special Waste Categorization Study, Proposed Rule,  
(A) Second Notice, Proposed Opinion and Order (JA)  
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AC DECISIONS:

- 89-164 Kemp Manufacturing Company (See letter from Bill Seltzer  
dated 11/1) \_\_\_\_\_
- 89-204 Bi-State Disposal \_\_\_\_\_
- 89-205 Otto Baer \_\_\_\_\_
- 89-206 Witvoet Trucking Company \_\_\_\_\_
- 89-207 Chicago Heights Refuse Depot \_\_\_\_\_
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AC MOTIONS:

- 87-38 John & Diane Lybarger - Agency motion to withdraw  
complaint and dismiss action (10/26)  
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\* INDICATES VARIANCE OR PERMIT APPEAL

AC MOTIONS: (Cont'd)

- 87-45 Glen Buelter & William DeJarnette - Agency motion to withdraw complaint and dismiss action (10/26)
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- 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)
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- 89-147 John Buris, Jr. - Agency motion to withdraw complaint  
and dismiss action (10/23)
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- 89-171 City of Paxton - Agency motion to proceed to decision by  
submittal of written legal argument to the Board without  
hearing (10/16)
- 
- 89-178 City of Harvey - Respondent's motion to vacate September  
28, 1989 Default Order (10/10), Agency response to  
Respondent's motion to vacate (10/13)(JM)
- 
- 89-196 Wayne D. Molen - Farmers and Merchants State Bank motion  
to dismiss (10/30)
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- 89-210 Raymond Tangman - Agency motion to withdraw complaint  
and dismiss action (10/23)
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- 89-215 Thomas Omer - Agency motion to correct misnomer (11/1)
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MOTIONS:

- 87-136 Roadmaster Industries - Petitioner's motion for  
clarification of October 18, 1989 Board Order  
(10/27)(JTM)
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- 87-191 Lefton Iron & Metal - Respondents Moss-American and  
Kerr-McGee's motion for clarification (10/6)(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)
- 
- 88-122 Waste Management - Petitioner's Status Report  
(10/27)(See March 23, 1989 Board Order)(JA)
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MOTIONS: (Cont'd)

- 88-193 General Motors - Agency motion for extension of time to file Agency Recommendation (10/23) \_\_\_\_\_
- 88-203 American National Can - Petitioner's motion to consolidate and modify August 31, 1989 Board Order (10/2)(MN) \_\_\_\_\_
- 89-19 Sheridan South Condominium - Respondent's motion to vacate September 28, 1989 Board Order and motion to dismiss (10/2), Complainant's response to Respondent's motion to vacate September 28, 1989 Board Order and motion to dismiss (10/17)(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 leave to file motion for modification of September 13, 1989 Order Instanter (10/26)(MN) \_\_\_\_\_
- 89-83 American National Can - Petitioner's motion to consolidate and modify September 13, 1989 Board Order (10/2)(BF) \_\_\_\_\_
- 89-107 City of Geneva - Petitioner's motion for extension of time (10/27)(JM) \_\_\_\_\_
- 89-121 Metropolitan Waste Systems - Petitioner's motion for leave to file an oversized reply Brief Instanter (10/23)(MN) \_\_\_\_\_
- 89-132 Safety-Kleen - Petitioner's motion to voluntarily withdraw (10/25)(BF) \_\_\_\_\_
- 89-137 W.R. Grace - Petitioner's Stipulation and motion for dismissal (10/25)(BF) \_\_\_\_\_
- 89-148 Reichhold Chemicals - Petitioner's motion to Board for sanctions (10/16), Agency response to motion for sanctions (10/23), Agency motion to dismiss or alternatively stay proceedings (10/25), Petitioner's opposition to Agency motion to dismiss or alternatively stay proceedings (10/31)(BF) \_\_\_\_\_
- 89-149 Consolidation Coal - Respondent's response to September 28, 1989 Board Order (10/20), Petitioner's motion for extension of time to respond to September 28, 1989 Board Order (10/24) \_\_\_\_\_

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)

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R89-13 IDENR Special Waste Categorization - motion to (A) substitute comments Instantner by the Illinois Steel Group (10/18)(JA)

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DISCUSSIONS:

87-93 Commonwealth Edison (RF)

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\* 87-127 City of East Moline (BF)(due 11/15)

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88-36 Mervis Industries (JD)

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\* 89-108 McLean County Disposal (JTM)(due 11/15)

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\* 89-122 Rowe Foundry & Machine (JM)(due 11/15)

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REGULATORY DISCUSSIONS:

R89-7 Continuous Monitoring Rules, Adopted Rule, Final Opinion (A) and Order (JD)

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NEW CASES:

89-168 Phyllis A. Daidone et al. v. Lexington Square

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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 (10/26))

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89-170 Centralia Environmental Services, Inc. v. EPA (BF)

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89-171 Pekin Energy Company v. EPA

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89-172 City of Centralia v. EPA (Provisional Variance)(JM)

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89-173 Clinton/Illinois Power v. EPA (Provisional Variance)(JM)

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NEW CASES: (Cont'd)

89-174 Crescent Plating Works, Inc. v. EPA (Provisional  
Variance)(JM) \_\_\_\_\_

NEW AC CASES:

89-225 City of Rochelle \_\_\_\_\_

89-226 Village of Elizabeth \_\_\_\_\_

89-227 Jack Wright \_\_\_\_\_

89-228 Sidney Collins \_\_\_\_\_

89-229 Robert Wood \_\_\_\_\_

89-230 Ronald L. Griffith \_\_\_\_\_

89-231 Leon Lamet \_\_\_\_\_

89-232 Martin Nettemeyer \_\_\_\_\_

89-233 Clarence Hart \_\_\_\_\_

89-234 Glen Spurgeon \_\_\_\_\_

89-235 Dan Koch \_\_\_\_\_

89-236 Gene Yates \_\_\_\_\_

89-237 Gary W. Jacobs \_\_\_\_\_

MINUTES:

October 18, 1989 \_\_\_\_\_

October 27, 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)  
 AC 88-93 City of Herrin (JM)  
 88-127 Koppers Company (JD)  
 \* 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)  
 C 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 12/20)  
 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 12/20)  
 AC 89-109 Fairview Heights (JA)  
 \* 89-121 Metropolitan Waste Systems (due 12/6)  
 \* 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)  
 \* 89-138 Solid Waste Agency (BF)(due 1/25)  
 \* 89-139 City of Chenoa (RF)(due 1/25)  
 \* 89-140 City of Minonk (MN)(due 3/8)

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10:30 A.M.

ADDENDUM

MOTIONS:

88-193 General Motors - Petitioner's request for  
continuance of hearing (10/27), Hearing Officer  
letter requesting guidance (11/1)

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