

**MINUTES OF REGULAR BOARD MEETING
MAY 24, 1990 CHICAGO, ILLINOIS**

All Board Members were present.

An Opinion and Order was adopted in #85-95, Citizens Utilities Company, by a vote of 6-0. R. Flemal abstained and B. Forcade concurred. (JA)

An Opinion and Order was adopted in #90-17, U.S. Department of the Navy, by a vote of 6-1. J. Theodore Meyer dissented. (JM)

An Opinion and Order was adopted in #90-21, United City of the Village of Yorkville, by a vote of 5-2. Messrs. J. Dumelle and B. Forcade dissented. (RF)

In R86-14, Borden Chemical, a Proposed Rule, Second First Notice, Opinion and Order was adopted by a vote of 7-0. (BF)

In R87-36, Modine Company Site-Specific, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. (RF)

In R88-26, Safe Drinking Water Act Regulations, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. B. Forcade concurred. (JA)

In R89-11, UIC Update, USEPA Regulations (January 1, 1989 through November 30, 1989), an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. (JA)

In R89-17(A & B), California Motor Vehicle Standards, an Order determining that an Economic Impact Study should be prepared, was adopted by a vote of 7-0. (JTM)

In R89-18, Calumet Industries, an Order dismissing the petition and closing the docket, was adopted by a vote of 7-0. (JM)

In R90-10, RCRA Toxicity Characteristic Leaching Procedures (TCLP), a Proposal for Public Comment, Proposed Opinion and Order was adopted by a vote of 7-0. (JA)

By a vote of 7-0, Default Orders were adopted in these Administrative Citations: ##90-27, Johnson Blackwell; 90-29, Harold Lowry; 90-30, Morgan Manufacturing Company.

By a vote of 7-0, the Board on its own motion, ordered both parties to submit additional information on or before June 11, 1990, concerning the Agency's response to an April 12, 1990 Board Order in #AC 89-120, William White. (JA)

By a vote of 6-1, the Board reconsidered and vacated a September 13, 1989 Default Order and dismissed the proceedings in #AC 89-170, Donald & Catherine Bouthot. J. Theodore Meyer dissented. (BF)

Agency motion to withdraw the complaint and dismiss the action was granted in #AC 90-7, Roger Smith, by a vote of 7-0. (JM)

Complainant's motion to dismiss the Administrative Citation was granted in #90-34, Frank Mihelich, by a vote of 7-0. (JM)

Board Member B. Forcade presented a draft remand Order in #87-89, Cargill, Inc. An amendment by J. Marlin was accepted and the Order directing the parties to file a statement, to be received in the Board's offices on or before June 15, 1990, indicating their views as to how this matter should best proceed, addressing whether they believe additional briefing or hearing is required, was adopted by a vote of 7-0. (BF)

By a vote of 7-0, Petitioner's motion for extension of variance was granted until July 31, 1990 in #88-69, Scott Air Force Base. J. Dumelle concurred. (JA)

By a vote of 6-1, Petitioner's motion for leave to file a reply to the Agency's response to its motion for reconsideration was granted until June 1, 1990 in #88-151, Citizens Utilities Company. (JA)

In an effort to bring the proceedings to a conclusion, an Order directing the Hearing Officer to schedule a hearing within 60 days in #88-170, James Esarey, was adopted by a vote of 7-0. (JM)

Respondent's motion to dismiss Complainant's First Amended Complaint was denied in #89-19, Daniel & Helen Lorden, by a vote of 7-0. (JM)

The Board, upon its own motion, ordered the Complainant to file, by June 1, 1990, any affidavits necessary to support the facts asserted in a May 22, 1990 letter to the Board, serve a copy of the letter in a manner as indicated by the Board's procedural rules Section 101.142 and to file proof of service as indicated by Section 101.143. In addition, the Board further ordered that after proper service and proof of service of Complainant's letter is complete, that Respondent file its response to Complainant's letter, accompanied by proof of service upon the Complainant, no later than June 15, 1990 in #89-151, Geneva Meat and Fish Market. The vote was 7-0. (RF)

Complainant's motion to dismiss in #89-203, Walter Zyznieuski, was granted by a vote of 7-0. (BF)

Agency motion to supplement the record in #89-212, City of Braidwood, was granted by a vote of 7-0. (JA)

Petitioner's motion to modify an April 26, 1990 Opinion and Order in #90-23, Village of Mundelein, was granted and condition #5 of the Order was modified by a vote of 7-0. (JA)

By a vote of 7-0, Petitioner's second agreed motion to stay compliance schedule for closure activities was granted in #90-24, Rock-Ola Manufacturing. In addition, the parties were requested to submit a status report by August 24, 1990. (JM)

By a vote of 7-0, an Order was adopted pursuant to Petitioner's motion for reconsideration of an April 12, 1990 Board Order in #90-28, USS Division of USX Corporation. (BF)

By a vote of 7-0, an Order was adopted pursuant to Petitioner's motion for reconsideration of an April 12, 1990 Board Order in #90-29, Laclede Steel Company. (BF)

By a vote of 7-0, an Order was adopted pursuant to Petitioner's motion for reconsideration of an April 12, 1990 Board Order in #90-30, Granite City. (BF)

Chairman Marlin presented a draft Order pursuant to Respondent's motion to strike Counts I and IV of the Complaint in #90-37, Nesco Steel Barrel. J. Dumelle's motion to strike both Counts I and IV failed by a 2-5 vote with J. Dumelle and J. Anderson for it and B. Forcade, R. Flemal, J. Marlin, J. Theodore Meyer and M. Nardulli against it. J. Marlin's Order to keep Count I and to strike Count IV was then adopted by a vote of 4-3. J. Anderson, J. Dumelle and B. Forcade dissented. (JM)

Respondent's motion for extension of time was granted for 30 days in #90-61, Duraco, Inc., by a vote of 7-0. (JM)

By a vote of 7-0, an Order was adopted pursuant to Petitioner's request for an expedited decision in R84-44, City of Pana. (JM)

These cases were discussed and held to June 7, 1990 for further discussion or possible decision: ##AC 89-131, ESG Watts; 89-183, City of Batavia.

These regulatory matters were discussed and held to June 7, 1990 for further discussion or possible decision: R84-44, City of Pana Site-Specific, Proposed Rule, First Notice, Opinion and Order; R88-7, Landfill Regulations, Proposed Rule, Second Notice, Opinion and Order.

In new cases these actions were taken by a vote of 7-0: ##90-99, The UNO-VEN Company v. EPA, parties directed to respond, by June 4, 1990, to whether this matter is under reconsideration by the

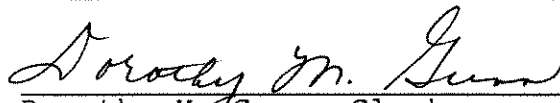
Agency and, therefore, whether the Board lacks jurisdiction to entertain this appeal, and Petitioner was advised that the Board noted two pages of its petition were labelled "confidential", but no confidential information was received and directed Petitioner's attention to Section 7 and 7.1 of the Act and to 35 Ill. Adm. Code 101.160 and 101.161 should Petitioner wish to submit confidential information in the future, **Order by B. Forcade**; 90-100, City of Ottawa v. EPA, Petitioner's request to incorporate the entire record of a prior proceeding was denied but the Board will incorporate by reference all prior Board Opinions and Orders, Petitioner was advised that, upon separate written request, it may incorporate portions of the prior record consistent with the procedural rules at 35 Ill. Adm. Code 101.106, by filing four copies of such information with the Board, held for Agency Recommendation, **Order by B. Forcade**; 90-101, Jefferson Smurfit Corporation v. EPA, provisional variance granted, J. Dumelle concurred, **Order by J. Marlin**; 90-102, State Oil Company v. EPA, accepted for hearing and property owners joined as party respondents, **Order by J. Marlin**.

These Administrative Citations were received by the Board: #90-38, Harold Fults; 90-39, Howell Oil Company; 90-40, Steve Zimmerman and Waste Limited.

Minutes of the May 10, 1990 Board Meeting were approved by a vote of 7-0.

All other matters not disposed of as listed were ordered held to June 7, 1990 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 7th day of June, 1990, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
MAY 24, 1990 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

DECISIONS:

- 85-95 Citizens Utilities Company, Baord Order on Remand (JA)

- 90-15 Wisconsin Can Company (BF) _____
- 90-17 U.S. Dept. of the Navy (JM) _____
- * 90-21 Village of Yorkville (RF)(due 6/7)

- R86-14 Borden Chemical, Proposed Rule, Second First Notice,
Opinion and Order (BF) _____
- R87-36 Modine Company Site-Specific, Adopted Rule, Final Order,
Opinion and Order (RF) _____
- R88-26 Safe Drinking Water Act Regulations, Adopted Rule, Final
Order, Opinion and Order (JA)

- R89-11 UIC Update, USEPA Regulations (January 1, 1989 through
November 30, 1989), Adopted Rule, Final Order, Opinion
and Order (JA) _____
- R89-17 California Motor Vehicle Standards, EcIS Determination
(A & B) Order (JTM) _____
- R89-18 Calumet Industries, Dismissal Order (JM)

- R90-10 RCRA Toxicity Characteristic Leaching Procedures (TCLP),
Proposal for Public Comment (JA)

AC DECISIONS:

90-27 Johnson Blackwell _____
90-29 Harold Lowry _____
90-30 Morgan Manufacturing Company _____

AC MOTIONS:

89-18 J & R Landfill - Respondent's petition for
(A & B) reconsideration and clarification (JM) _____

89-120 William White - Respondent's motion for reconsideration
 of July 27, 1989 Default Order (4/2), Agency response to
 April 12, 1990 Board Order (5/7)(JM) _____

89-170 Donald & Catherine Bouthot - Respondents motion for
 reconsideration of September 13, 1989 Default Order
 (4/2), Letter from James A. Bray (5/7), Agency response
 to April 12, 1990 Order (5/8)(JM) _____

89-292 Land and Lakes - Respondent's motion to withdraw appeal
 (5/23)(JM) _____

90-7 Roger Smith - Agency motion to withdraw complaint and
 dismiss action (5/11)(JM) _____

90-34 Frank Mihelich - Complainant's motion to dismiss
 Administrative Citation (5/21)(JM) _____

MOTIONS:

86-193 City of Freeport - Respondent's petition to modify
 September 8, 1988 Board Order (5/17)(JM) _____

87-89 Cargill, Inc. - Remand Order (JM) _____

88-69 Scott AFB - Petitioner's motion for extension of
 variance until April 30, 1990 (4/2), Petitioner's motion
 for extension of variance until July 31, 1990 (4/24),
 Agency response to Petitioner's motion (4/24)(JA) _____

MOTIONS: (Cont'd)

- 88-151 Citizens Utilities - Petitioner's motion for reconsideration of March 8, 1990 Opinion and Order (4/10), Agency response to Petitioner's motion for reconsideration (5/21), Petitioner's motion for leave to file a reply to Agency's response to motion for reconsideration (5/22)(JA)
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- 88-170 James Esarey - Petitioner's waiver of decision deadline (JM)
-
- 89-19 Daniel & Helen Lorden - Respondent's motion to dismiss Complainant's First Amended Complaint (4/20), Complainants answer to Respondent's motion to dismiss (5/9)
-
- 89-151 Brian J. Peter - Board Order (RF)
-
- 89-203 Walter Zyznieuski - Complainant's motion to dismiss (5/14)(BF)
-
- 89-212 City of Braidwood - Agency motion to supplement the record (5/2)(JA)
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- 90-23 Village of Mundelein - Petitioner's motion to modify April 26, 1990 Opinion and Order (5/21)(JA)
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- 90-24 Rock-Ola Manufacturing - Petitioner's second agreed motion to stay compliance schedule for closure activities (5/10)
-
- 90-28 USS Steel - Petitioner's motion to reconsider April 12, 1990 Board Order (5/2)(RF)
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- 90-29 Laclede Steel Company - Petitioner's motion to reconsider April 12, 1990 Board Order (5/1)(RF)
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- 90-30 Granite City - Petitioner's motion to reconsider April 12, 1990 Board Order (5/8)(RF)
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- 90-37 Nesco Steel Barrel - Respondent's motion to strike Counts I and IV of the Complaint (3/29), Agency response to Respondent's motion to strike (4/9)(JM)
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MOTIONS: (Cont'd)

90-61 Duraco, Inc. - Respondent's uncontested motion for extension of time (5/7)

R84-44 City of Pana - Petitioner's request for expedited decision (5/17)(JM)

DISCUSSIONS:

AC 89-131 ESG Watts (MN)

* 89-183 City of Batavia (JTM)(due 7/19)

REGULATORY DISCUSSIONS:

R84-44 City of Pana Site-Specific, Proposed Rule, First Notice, Opinion and Order (JM)

R88-7 Landfill Regulations, Proposed Rule, Second Notice, Opinion and Order (JA)

NEW CASES:

90-99 The UNO-VEN Company v. EPA (BF)

90-100 City of Ottawa v. EPA

90-101 Jefferson Smurfit Corporation v. EPA (Provisional Variance)(JM)

NEW AC CASES:

90-38 Harold Fults

90-39 Howell Oil Company

90-40 Steve Zimmerman & Waste Limited

MINUTES:

May 10, 1990

PENDING CASES ASSIGNED:

* 85-95 Citizens Utilities (Remand)(JA)
* 85-140 Citizens Utilities (Remand)(MN)
* 85-166 Citizens Utilities (JTM)(open waiver)
86-1 City of Peru CSO (JTM)
86-27 Modine Manufacturing (Remand)(JA)
86-48 Wells Manufacturing (Remand)(RF)
86-56 Trilla Steel Drum (Remand)(BF)
86-161 Elizabeth Street Foundry (JD)
* 86-180 The Ceco Corporation (JTM)(open waiver)
87-89 Cargill (Remand)(JM)
* 87-131 Amerock Corporation (JTM)
87-191 Lefton Iron and Metal (JD)
87-209 Commonwealth Edison Company (JA)
AS 88-2 Stepan Company (JM)
* 88-25 Modine Manufacturing (JA)(open waiver)
88-127 Koppers Company (JM)
* 88-193 General Motors Corporation (JD)(open waiver)
* 88-195 McLean County Disposal (JTM)(open waiver)
88-199 Seegers Grain (JM)
AS 89-2 Elizabeth Street Foundry (JD)
AS 89-3 The Nutrasweet Company (BF)
AC 89-18 J & R Landfill (RF)
89-64 Gallagher Blacktop (BF)
AC 89-109 Fairview Heights (JM)
* 89-129 National Environmental Services (BF)(due 7/19)
AC 89-131 ESG Watts, Inc. (MN)
89-151 Brian J. Peter (RF)
AC 89-156 John Gordon (BF)
* 89-170 Centralia Environmental Services (MN)
89-179 Tony & Patricia Martin (MN)
89-182 Robert & Joan Kvatsak (BF)
89-186 Bulk Molding Compounds (BF)
89-200 Ekco Glaco (JM)
89-206 Chicago Steel Container (JD)
* 89-212 City of Braidwood (JA)(due 6/21)
* 89-213 Illinois Power Company (BF)(due 6/21)
AC 89-224 John Vander (MN)
AC 89-227 Jack Wright (RF)
AC 89-258 Donald Taylor (BF)
AC 89-304 G & M Wrecking Company (JA)
AS 90-1 City of Jacksonville (JA)
90-13 ABC Rail Corporation (JD)
90-19 DuPage Plating Company (JD)
* 90-41 Village of Elburn (RF)(due 7/19)
* 90-43 Town of Cortland (RF)(due 8/9)
* 90-53 Industrial Fuels & Resources/Illinois (JD)(due 8/9)
90-54 F & F Laboratories (MN)
90-55 United American Metals (JM)
90-56 Plochman, Inc. (MN)
90-57 Lifetime Rooftile Company (MN)
90-58 Arlington Plating Company (MN)
90-64 Jeffrey Kilgus (BF)

PENDING CASES ASSIGNED: (Cont'd)

- 90-67 Allwaste Tank Cleaning (BF)
- 90-70 Caravelle Wood Products (JM)
- 90-78 Support Terminal Services (JM)
- * 90-94 D & L Landfill (MN)(due 8/30)

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
MAY 24, 1990 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ADDENDUM

NEW CASES:

90-102 State Oil Company v. EPA _____