

ILLINOIS POLLUTION CONTROL BOARD

**MINUTES OF REGULAR BOARD MEETING
MARCH 11, 1993 CHICAGO, ILLINOIS**

All Board Members were present save M. Nardulli who is ill.

An Opinion in support of an Order entered previously in #AS 91-3, Peoria Disposal Company, was adopted by a vote of 6-0. (JA)

An Opinion and Order was adopted in #AC 92-55 (Docket A & B), Max and Carlotta Wayman, by a vote of 6-0. (JCM)

An Opinion and Order was adopted in #92-104, Roger Malkey, by a vote of 6-0. B. Forcade concurred. (RCF)

In R92-10, RCRA Update, USEPA Regulations (January 1, 1992 through June 30, 1992), a Post-adoption Corrections Supplemental Opinion and Order was adopted by a vote of 6-0. (JA)

In R92-21, Amendments to the New Source Review Rules, a Proposed Rule, Second Notice, Opinion and Order was adopted by a vote of 6-0. (GTG)

Default Orders were adopted in these Administrative Citations by a vote of 6-0: ##93-2, Mary Robson et al.; 93-4, Peabody Coal Company.

An Order directing the parties to file a status report, or other appropriate pleadings, by March 22, 1993 or the case will be subject to dismissal for want of prosecution, was adopted in #AC 92-32, Charles and Nancy Fuchs, by a vote of 6-0. (JTM)

An Order construing a February 22, 1993 letter seeking clarification from the Board as to the designation of the payee of the hearing costs, as a motion for reconsideration, instructing the Complainant to brief the issue of the designated payee for hearing costs, and as the authority for the Complainant to bring the action arises from a delegation agreement with the Environmental Protection Agency (Agency), requesting the Agency to submit briefs on the same issue, to be filed with the Board on or before April 2, 1993, and if payment has not already been made, staying the payment of the hearing costs by the Respondent until after resolution of the matter, was adopted in #AC 92-37(B), Gerald B. Miller, by a vote of 6-0. (BF)

Petitioner's motion for reconsideration of a January 21, 1993 Board Order was denied in #AS 91-10, Cabot Corporation, by a vote of 6-0. (JA)

By a vote of 6-0, an Order was adopted pursuant to Petitioner's request to waive the hearing requirement in #AS 92-4, Joint Petition of Detroit Diesel Corporation and the Manufacturers Association. (JA)

Petitioner's motion to stay the proceedings was denied in #AS 92-11, Joint Petition of Navistar International Transportation Corporation and The Engine Manufacturers Association, by a vote of 6-0. (JA)

Petitioner's motion to stay the proceedings was denied in #AS 92-12, Joint Petition of Cummins Engine Company and the Engine Manufacturers Association, by a vote of 6-0. (JA)

Since an objection was filed, a hearing was authorized in #AS 93-1, Quantum Chemical Company, by a vote of 6-0. (JCM)

Agency motion for an extension of time to file its response to Petitioner's objection and motion to vacate closure plan approval was granted until March 16, 1993, in #89-30, Olin Corporation, by a vote of 6-0. (JCM)

An Order requesting the Petitioners' to submit supplemental briefs by April 1, 1993, requesting any responses by the Respondents' to be submitted by April 22, 1993, and any reply by the Petitioners' to be filed by May 3, 1993, was adopted in #90-137, Village of Roxana, by a vote of 6-0. (JTM)

By a vote of 5-1, a Supplemental Opinion and Order was adopted pursuant to Complainant's motion for reconsideration in #90-187, Herman W. Prescott. B. Forcade dissented. (RCF)

An Order directing the Petitioner to file another status report with the Board on or before August 1, 1993, was adopted in #91-75, Community Consolidated School District No. 15, by a vote 6-0. (BF)

An Order directing the Clerk of the Board to cause publication of the required newspaper notice of the parties' request for relief from the hearing requirement was adopted in #92-68, Chem-Plate Industries, by a vote of 6-0. (JA)

An Order, granting Petitioner's motion to supplement the Agency Record with a cover letter dated February 12, 1992, and two original photographs depicting excavation activities, and because the original photographs are in the Agency's possession, directing the Agency to file the photographs with the Board within 14 days, was adopted in #92-152, State Bank of Whittington, by a vote of 6-0. (JTM)

An Order, granting Waste Management of Illinois' motion for leave to file a reply to Petitioners' Memorandum in Opposition to the

Bill of Costs, affirming the Board's previous determination that sanctions are warranted, and reducing the amount of sanctions, was adopted in #92-156, County Board of whiteside, by a vote of 5-0. J. Theodore Meyer abstained. (BF)

An Order staying the proceedings until June 25, 1993, and directing the parties to file status reports with the Board on or before June 25, 1993, was adopted in #92-165, Reichhold Chemicals, by a vote of 6-0. (BF)

Petitioner's motion to supplement the record was denied in #92-166, Marathon Oil Company, by a vote of 6-0. (RCF)

Agency motion to file the Agency Record Instanter was granted in #92-212, Pekin Metro Landfill, by a vote of 6-0. (JA)

Respondent's motion to file its Answer and Affirmative Defense Instanter was granted in #92-215, Douglas and Nancy Locke, by a vote of 6-0. (RCF)

Agency motion to file the Agency Record Instanter was granted in #93-1, Pekin Metro Landfill, by a vote of 6-0. (JA)

A joint motion and stipulation to dismiss was granted in #93-7, Waste Management of Illinois, by a vote of 6-0. (BF)

An Order granting the Agency's motion to file the Agency Record Instanter, and dismissing the matter for want of jurisdiction, was adopted in #93-9, Hillsboro Glass Company, by a vote of 5-0. B. Forcade adstained. (JA)

Agency motion to file the Agency Record Instanter was granted in #93-10, Pekin Metro Landfill, by a vote of 6-0. (JA)

An Order denying the Village of Huntley, LEAC II and the Village of Lakewood's motion to intervene, but allowing the movants to submit amicus curiae briefs according to the briefing schedule to be set by the Hearing Officer, was adopted in #93-11, Material Recovery Corporation, by a vote of 6-0. (GTG)

Agency motion for an extension of time to file the Agency Record was granted until March 15, 1993, in #93-16, Beloit Corporation, by a vote of 6-0. (GTG)

Petitioner's motion to dismiss was granted with prejudice in #93-24, Illinois Power Company, by a vote of 6-0. (JTM)

Petitioner's motion to dismiss was granted with prejudice in #93-26, Illinois Power Company, by a vote of 6-0. (JTM)

Petitioner's motion to dismiss was granted with prejudice in #93-27, Illinois Power Company, by a vote of 6-0. (JTM)

Agency motion to file the Agency Record Instanter was granted in #93-28, RTC Industries, by a vote of 6-0. (BF)

Agency motion to file the Agency Record Instanter was granted in #93-29, 5566 Building Partnership, by a vote of 6-0. (JCM)

Agency motion for an extension of time to file the Agency Record was granted until April 5, 1993, in #93-32, Ford Motor Company, by a vote of 6-0. (GTG)

An Order denying the Proponent's motion to strike the Illinois Environmental Regulatory Group's motion to stay, granting the Illinois Environmental Regulatory Group and GE Chemical's motion to join in the previously filed motion to stay, and then denying all motions for stay, was adopted in R92-8, Amendments to 35 Ill. Adm. Code Subtitle C (Water Toxics and Bioaccumulation), by a vote of 6-0. (JCM)

These cases were discussed and held to March 25, 1993 for further discussion or possible decision: ##86-4, City of Morris CSO; AS 90-4, Granite City Division of National Steel; AS 91-6, Dart Container Corporation; 91-30, Susan Curtis and Marcy Diesing; AS 92-9, Conversion Systems, Inc.; 92-179, Cabot Corporation; 92-198, -201, Village of McCook; R91-20, Potentially Infectious Medical Waste, Proposed Rule, Second Notice, Opinion and Order.

In new cases these actions were taken by a vote of 6-0: ##93-33, Ball Corporation, Ball Metal Decorating & Service Division v. EPA, Petitioner's request to consolidate with PCB 91-175, -258 and PCB 92-150, was granted and accepted for hearing, **Order by B. Forcade**; 93-42, People of the State of Illinois v. Robert Y. Jordan and Priscilla W. Jordan, Clerk of the Board directed to cause publication of the required newspaper notice of the parties' request for relief from hearing, and the Board will reserve ruling on the parties' request until after the statutory 21 day notice has passed, **Order by J.C. Marlin**; 93-43, Leonard F. Wolst v. Pepperidge Farm, Inc., **held for duplicitous/frivolous determination**; 93-44, James M. Tonne and Jeanine F. Tonne v. Leamington Foods, **held for duplicitous/frivolous determination**.

In these new cases these actions were taken by a vote of 5-0: ##93-45, St. Louis Auto Shredding v. EPA, accepted for hearing and consolidated with PCB 93-46, B. Forcade abstained, **Order by R.C. Flemal**; 93-46, St. Louis Auto Shredding v. EPA, accepted for hearing and consolidated with PCB 93-45, B. Forcade abstained, **Order by R.C. Flemal**.

In these other new cases these actions were taken by a vote of 6-0: ##93-47, Belleville/Jacqueline Brown v. EPA, accepted for hearing, **Order by B. Forcade**; 93-48, People of the State of Illinois v. Northwestern Steel & Wire Company, Clerk of the Board directed to cause publication of the required newspaper notice of the parties'

request for relief from hearing, and the Board will reserve ruling on the parties' request until after the statutory 21 day notice has passed, **Order by J.C. Marlin; 93-49, Frontier Industries, Inc. v. EPA, provisional variance granted, Order by J.C. Marlin; 93-50, People of the State of Illinois v. Tri-State Metal Company, Clerk of the Board direct to cause publication of the required newspaper notice of the parties' request for relief from hearing, and the Board will reserve ruling on the parties' request until after the statutory 21 day notice has passed, Order by J.C. Marlin.**

This Administrative Citation was received by the Board: #93-9, EPA v. Charles E. Brewer.

Because a Petition for Review was filed, this Administrative Citation will be set for hearing: #93-6, Ruth & Steven Sheppard.

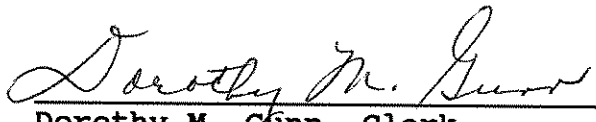
Minutes of the February 25, 1993 Board Meeting were approved by a vote of 6-0.

An Order construing Complainants' March 10, 1993 letter to the Board as a motion for reconsideration, and upon reconsideration the Board declined to reconsider its December 3, 1992 Order dismissing the Complainants' complaint because the motion was untimely filed, was adopted in #92-169, Daniel & Helen Lorden, by a vote of 6-0. (JCM)

By a vote of 5-1, new case #93-51, St. Clair County v. Village of Sauget, Village of Sauget President and Board of Trustees, G.J. Leasing Company, Inc., d/b/a Cahokia Marine Service, was accepted for hearing. G. Tanner Girard dissented. (BF)

All other matters not disposed of as listed were ordered held to March 25, 1993 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 25th, day of March, 1993, by a vote of 6-0.



 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
MARCH 11, 1993 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ADDENDUM

MOTIONS:

92-169 Daniel & Helen Lorden - Board Order (See
Complainants' letter to Board filed March 10,
1993) (JCM)

**ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
MARCH 11, 1993 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.**

DECISIONS:

AS 91-3 Peoria Disposal Company, Opinion (JA)

AS 92-6 C.J. Goodall Tire Company (GTG)

AC 92-55 Max and Carlotta Wayman (JCM)
(A & B) _____
* 92-104 Roger Malkey (RCF) (due 3/25)

R92-10 RCRA Update, USEPA Regulations (January 1, 1992
through June 30, 1992), Post-adoption Corrections,
Supplemental Opinion and Order (JA)

R92-21 Amendments to New Source Review Rules, Proposed
Rule, Second Notice, Opinion and Order (GTG)

AC DECISIONS:

93-2 Mary Robson et al. _____
93-4 Peabody Coal Company _____

MOTIONS:

AC 91-45 Rochelle Disposal Service - Respondent's motion to
(A & B) reconsider January 7, 1993 Opinion and Order (2/8)
(JCM) _____

*** INDICATES VARIANCE OR PERMIT APPEAL**

MOTIONS: (Cont'd)

- AC 92-32 Charles & Nancy Fuchs et al. - Board Order (See Hearing Officer letter to Board dated 3/8) (JTM)
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- AC 92-37 Gerald B. Miller - letter/motion to clarify (2/22)
(B) (BF)
-
- AC 92-78 Phillip Pennington - letter/motion to reopen hearing (2/16), Statement of Hearing Officer in response to February 25, 1993 Board Order (3/8) (RCF)
-
- AS 91-10 Cabot Corporation - Petitioner's motion for reconsideration of January 21, 1993 Order (2/25) (JA)
-
- AS 92-1 Stiffel Company - joint status report and request for stay (2/8), Agency response to February 25, 1993 Board Order and motion Instanter for extension of time within which to respond to petition (3/8) (JCM)
-
- AS 92-4 Detroit Diesel Corporation - Petitioner's request to waive hearing requirement (See Petitioner's letter to Board dated February 16, 1993) (JA)
-
- AS 92-11 Navistar International - Petitioners' motion to stay proceedings (2/16) (JA)
-
- AS 92-12 Cummins Engine Company - Petitioners' motion to stay proceedings (2/16) (JA)
-
- AS 93-1 Quantum Chemical - Objection (2/25) (JCM)
-
- 85-140 Citizens Utilities - Petitioner's motion for rehearing (11/18) (JA)
-

MOTIONS: (Cont'd)

- 89-30 Olin Corporation - Agency status report in response to December 17, 1992 Board Order and motion for dismissal (1/15), Petitioner's objection to Agency motion for dismissal and motion to vacate closure plan approval and for remand of consideration of pending permit modification request or other relief (1/19), Agency motion for extension of time to file its response to Petitioner's objection and motion to vacate closure plan approval (2/23) (JCM)
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- 90-137 Village of Roxana - Board Order (JTM)
-
- 90-187 Herman W. Prescott - Complainant's motion for reconsideration of December 17, 1992 Board Order (1/15), Respondent's response to motion for reconsideration and brief in support of response to motion for reconsideration (1/29) (**Supplemental Opinion and Order**) (RCF)
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- 91-75 Community Consolidated School District - Petitioner's status report in response to December 17, 1992 Board Order (3/1) (BF)
-
- 92-68 Chem-Plate Industries - motion for relief from hearing (3/1) (JA)
-
- 92-80 Lake County Forest Preserve - motion to quash subpoena filed by Dan Indeliato and American States Insurance Company (12/9), Complainant's response to motion to quash and cross motion for rule to show cause (3/2), American States Insurance Company's Memorandum in support of its motion to quash and response to February 25, 1993 Board Order (3/8) (JTM)
-
- 92-131 Citizens Opposed to Additional Landfill - Petitioner's motion for rehearing/reconsideration (3/1) (JCM)
-
- 92-152 State Bank of Whittington - Petitioner's motion to supplement the record (2/16) (JTM)
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MOTIONS: (Cont'd)

- 92-156 County Board of Whiteside - Waste Management of Illinois' motion for leave to file reply to Petitioners' Memorandum in opposition to bill of costs (2/19), Petitioners motion for reconsideration of the sanctions imposed upon counsel for the Petitioner (2/25), Waste Management of Illinois' response to Petitioner's motion for reconsideration of sanctions imposed upon Petitioner's counsel (3/9) (BF)
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- 92-164 Berniece Kershaw - Complainant's motion for summary judgment (2/17) (GTG)
-
- 92-165 Reichhold Chemicals - Petitioner's status report in response to December 3, 1992 Board Order (3/5), Petitioner's motion to extend stay (3/5), Agency status report in response to December 3, 1992 Board Order (3/10) (BF)
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- 92-166 Marathon Oil Company - Petitioner's motion to supplement the record (2/25), Agency response to Petitioner's motion to supplement the record 3/5) (RCF)
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- 92-179 Cabot Corporation - Agency supplemental response to agreed stipulation in lieu of recommendation (3/8) (GTG)
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- 92-180 We Shred It - Christian County's motion to intervene (3/2) (JTM)
-
- 92-212 Pekin Metro Landfill - Agency motion to file Record Instanter (3/4) (JA)
-
- 92-215 Douglas & Nancy Locke - Respondent's motion to file answer and affirmative defense instanter (3/3) (RCF)
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- 93-1 Pekin Metro Landfill - Agency motion to file Record Instanter (2/26) (JA)
-
- 93-7 Waste Management - joint motion and stipulation to dismiss (3/4) (BF)
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MOTIONS: (Cont'd)

- 93-9 Hillsboro Glass Company - Petitioner's motion for summary judgment (2/9), Agency response to Petitioner's motion for summary judgment (2/22), Agency motion to file Record Instanter (2/23), Petitioner's motion to file Instanter a reply to Agency's response to motion for summary judgment (2/23) (MN) _____
- 93-10 Pekin Metro Landfill - Agency motion to file Record Instanter (2/26) (JA) _____
- 93-11 Material Recovery Corporation - petition to intervene by the Village of Huntley and the Village of Lakewood (2/23) (GTG) _____
- 93-16 Beloit Corporation - Agency motion for extension of time to file Record (2/25) (GTG) _____
- 93-24 Illinois Power Company - Petitioner's motion to dismiss (3/4) (JTM) _____
- 93-26 Illinois Power Company - Petitioner's motion to dismiss (3/4) (JTM) _____
- 93-27 Illinois Power Company - Petitioner's motion to dismiss (3/4) (JTM) _____
- 93-28 RTC Industries - Agency motion to file Record Instanter (3/8) (BF) _____
- 93-29 5566 Building Partnership - Agency motio to file Record Instanter (3/8) (JCM) _____
- 93-32 Ford Motor Company - Agency motion for extension of time to file Record (3/3) (GTG) _____
- 93-34 Chemical Waste Management - Agency motion to dismiss (3/5), Petitioner's motion for clarification of permit conditions and motion to consolidate with PCB 93-35 (3/5) (GTG) _____

MOTIONS: (Cont'd)

93-35 Chemical Waste Management - Petitioner's petition for stay (2/19), Petitioner's response to February 25, 1993 Board Order and motion to consolidate with PCB 93-34 (3/5) (RCF)

R92-8 Sierra Club Water Quality Amendments - motion to stay proceedings filed by the Illinois Steel Group (2/3), joint Petitioners' response to motion to stay proceedings (2/16), Illinois Environmental Regulatory Group's request to be added as a signatory to the motion to stay proceedings filed by Acme Steel, Commonwealth Edison, The Illinois Steel Group, LTV Steel Company, Inc. and The Unoven Company (2/22), joint Petitioners' response to IERG's motion to stay proceedings (2/23), motion to stay proceedings filed by the Chemical Industry Council of Illinois (2/24), Agency response to the Illinois Steel Group's and joint movants motion to stay proceedings (2/24), Illinois Steel Group's reply to Petitioners' response to motion to stay proceedings and GE Chemicals, Inc. request to join motion to stay (2/24) (JCM)

DISCUSSIONS:

86-4 City of Morris CSO (RCF) _____

AS 90-4 Granite City Division of National Steel (JTM)

AS 91-6 Dart Container Corporation (JCM) _____

 91-30 Susan Curtis & Marcy Diesing (JCM) _____

AS 92-9 Conversion Systems, Inc. (JA) _____

* 92-179 Cabot Corporation (GTG) (due 3/25) _____

* 92-198) Village of McCook (JTM) (due (3/25) _____

 92-201)

REGULATORY DISCUSSIONS:

R91-20 Potentially Infectious Medical Waste, Proposed Rule, Second Notice, Opinion and Order (RCF)

NEW CASES:

93-33 Ball Corporation, Ball Metal Decorating & Service Division v. EPA (See also Petitioner's request for consolidation filed 2/18) (BF)

93-42 People of the State of Illinois v. Robert Y. Jordan and Priscilla W. Jordan (See also motion for relief from hearing filed 2/26) (JCM)

93-43 Leonard F. Wolst v. Pepperidge Farm, Inc. (GTG)

93-44 James M. Tonne and Jeanine F. Tonne v. Leamington Foods (JA)

93-45 St. Louis Auto Shredding v. EPA (RCF)

93-46 St. Louis Auto Shredding v. EPA (RCF)

93-47 Belleville/Jacqueline Brown v. EPA (BF)

93-48 People of the State of Illinois v. Northwestern Steel & Wire Company (See also agreed motion for relief from hearing requirement filed 3/9) (JCM)

93-49 Frontier Industries, Inc. v. EPA (Provisional Variance) (JCM)

93-50 People of the State of Illinois v. Tri-State Metal Company (See also agreed motion to request relief from the hearing requirement filed 3/10) (JCM)

NEW AC CASES:

93-9 EPA v. Charles E. Brewer_____

AC APPEALS:

93-6 Ruth & Steven Sheppard_____

AMENDED ADJUSTED STANDARDS:

92-13 Alumax, Inc. (filed 3/8) (BF)_____

NEW ADJUSTED STANDARDS:

93-3 Petition of Douglas Furniture of California for an
Adjusted Standard from 35 Ill. Adm. Code 218.204

MINUTES:

February 25, 1993_____