ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING FEBRUARY 17, 1994 CHICAGO, ILLINOIS

An opinion and order was adopted in #AS 92-8, Cabot Corporation, by a vote of 6-0. (RCF)

An opinion and order was adopted in #AS 93-7, Keystone Steel and Wire, by a vote of 6-0. (ED)

An opinion and order was adopted in ##93-60, -61, Industrial Salvage, Inc., by a vote of 6-0. (RCF)

An opinion and order was adopted in #93-118, People of the State of Illinois v. Marsco Manufacturing Company, by a vote of 6-0. J. Theodore Meyer concurred. (McF)

An opinion and order was adopted in #94-16, People of the State of Illinois v. Central Illinois Public Service (Newton Unit #1 and #2), by a vote of 6-0. J. Theodore Meyer concurred. (CAM)

An opinion and order was adopted in #94-17, People of the State of Illinois v. Olin Corporation, by a vote of 6-0. J. Theodore Meyer concurred. (CAM)

An opinion and order was adopted in #94-20, People of the State of Illinois v. Gerald V. Johnson, d/b/a Jerry's, by a vote of 6-0. J. Theodore Meyer concurred. (CAM)

An opinion and order was adopted in #94-39, People of the State of Illinois v. Top Disposal Service, Inc., by a vote of 6-0. J. Theodore Meyer concurred. (CAM)

A Proposed Rule, Second Notice, Opinion and Order was adopted in R93-26, Amendments to the New Source Review Rules, by a vote of 6-0. (GTG)

An Adopted Rule, Final Order, Opinion and Order was adopted in R93-28, Stage II Vapor Recovery in the Metro-East Area: Repeal of 35 Ill. Adm. Code 219.586, by a vote of 6-0. J. Theodore Meyer concurred. (RCF)

Default orders were adopted in these Administrative Citations by a vote of 6-0. ##93-65, EPA v. Gallatin National Company; 93-66, EPA v. Orville Bartels; 94-2, Sangamon County v. Lillie Moreland.

Agency motion to vacate an October 7, 1993 Default Order was granted and the docket was closed in #AC 93-36, Royanne Grooms and Randy Rowe, by a vote of 6-0. (CAM)

A motion to reconsider a November 18, 1993 Default Order was denied

in #AC 93-46, Robert C. Waldron, Jr., by a vote of 6-0. (CAM)

An order renewing the stay in the matter until April 21, 1994, and directing the Petitioner to file a timely status report on or before April 16, 1994, was adopted in #AS 88-2, Stepan Company, by a vote of 6-0. (CAM)

An order accepting the Petitioner's status report, extending the stay in the matter until May 17, 1994, and directing the Petitioner to file a status report on May 17, 1994, indicating whether an additional extension of the stay should be granted, was adopted in #AS 93-1, Quantum Chemical Corporation, USI Division, by a vote of 6-0. (CAM)

An order granting the Petitioner's motion for release of record, was adopted in ##91-7, -92-25, Land and Lakes Company, by a vote of 6-0. (CAM)

An order granting the Respondent's motion for leave to file instanter a reply to the Complainants' response to the Consultants' report and recommendations, was adopted in #91-195, Scott and Karen Thomas, by a vote of 5-1. R.C. Flemal dissented. (ED)

An order accepting the Petitioner's status report and directing the parties to file updated status reports or a joint status report, if preferred, no later than July 1, 1994, was adopted in #91-206, Clayton Chemical Company, by a vote of 6-0. (JTM)

An order directing the Petitioner to file an additional status report with the Board on or before August 19, 1994, was adopted in #92-108, The OK Trucking Company, by a vote of 6-0. (ED)

An order directing the parties to file an updated status report on or before March 18, 1994, was adopted in #92-164, Berniece and Darwin Kershaw, by a vote of 6-0. (GTG)

An order accepting the status report and directing the parties to file an updated status report on or before May 27, 1994, was adopted in #92-168, Edwards-Etherton Oil Company, by a vote of 6-0. (CAM)

An order directing the Hearing Officer to set the matter for hearing, and to complete all hearings no later than July 1, 1994, was adopted in #92-176, Central Can Company, by a vote of 6-0. (JTM)

An order accepting the status report and directing the Petitioner to file an updated status report on or before May 27, 1994, was adopted in #92-184, Braun's Standard Service, by a vote of 6-0. (CAM)

An order granting the Petitioner's motion to dismiss, was adopted

in #92-205, Douglas Furniture of California, by a vote of 6-0. (RCF)

An order directing the Petitioner and the Agency to file status reports with the Board, or a joint status report, if preferred, no later than March 9, 1994, setting forth the anticipated date of resolution of the matter, was adopted in #92-211, Safety-Kleen Corporation, by a vote of 6-0. (JTM)

An order accepting the status report and directing the parties to file with the Board and the Hearing Officer an additional report indicating the status of any ongoing negotiations between the Petitioner and the Respondent on or before May 9, 1994, was adopted in #93-17, Southern California Chemical Company, by a vote of 6-0. (RCF)

An order accepting the Petitioner's status report, was adopted in #93-122, EMRO Marketing Company, by a vote of 5-0. M. McFawn abstained. (ED)

An order granting the Petitioner's motion for an extension of time until February 28, 1994, to file its reply to the Agency's response to its motion for summary judgment and counter-motion for summary judgment, was adopted in #93-124, Tolles Realty Company, by a vote of 6-0. (ED)

An order directing the Petitioner to show cause, on or before March 4, 1994, why a default order dismissing the matter should not be entered, and why sanctions should not be levied for costs incurred by the Board, and such other sanctions as may be appropriate, was adopted in #93-138, Safety-Kleen Corporation (Urbana Facility), by a vote of 6-0. (ED)

An order granting the Agency's motion for an extension of time to file the Recommendation until 30 days after the Hearing Officer has entered an order scheduling a hearing, was adopted in #93-139, The Ensign-Bickford Company, by a vote of 6-0. (CAM)

An order granting the Petitioner's motion to dismiss, was adopted in #93-233, Enviropur Waste Refining and Technology, by a vote of 6-0. (GTG)

An order granting the Petitioner's motion to dismiss, was adopted in #94-24, North Shore School District #112, by a vote of 6-0. (CAM)

An order directing the Petitioner to file an application designating which portions of its permit application are claimed to be confidential, advising the parties that when a properly marked copy of the application is submitted, it will be reviewed under Section 7 of the Environmental Protection Act for determination as to whether the designated materials are entitled to protection from

disclosure, also advising the parties that the materials for which protection is sought will be protected from disclosure while in the Board's possession until the Board makes its determination and the time for appeal has expired, and directing the Petitioner to clarify which protection is sought under Section 7 of the Act, whether it is seeking trade secret status, or protection as a mechanical process or confidential data, was adopted in #94-26, Marathon Oil Company, by a vote of 6-0. (McF)

An order directing the Petitioner to resubmit its permit application which should include a new motion to have the documents protected, which clearly states the grounds on which protection is sought, e.g., as trade secrets, secret manufacturing processes, or confidential data, advising the Petitioner that when a proper application is submitted, the documents will be protected from disclosure while in the Board's possession until the Board makes its determination and the time for appeal has expired, and granting the Agency's motion for an extension of time until March 7, 1994 to file the Agency recommendation, was adopted in #94-27, Marathon Oil Company, by a vote of 6-0. (McF)

These cases were discussed and ordered held to March 3, 1994 for further discussion or possible decision: ##92-80, Lake County Forest Preserve District; 92-200, Ron's Interstate Sunoco; 93-151, Mobil Oil Corporation; 93-158, Wheaton Park District; 93-183, Edgewater Beach Apartments.

These regulatory matters were discussed and ordered held to March 3, 1994 for further discussion or possible decision: R93-16, RCRA Update, USEPA Regulations (January 1, 1993 through June 30, 1993), Adopted Rule, Final Order, Opinion and Order; R93-24, Amendments to the Rules for Clean Air Act Permit Appeals and Hearings Pursuant to Specific Rules 35 Ill. Adm. Code Parts 105 and 106, Proposed Rule, Final Order, Opinion and Order; R93-29, Regulation of Landscape Waste Compost Facilities 35 Ill. Adm. Code 830 - 832, Proposed Rule, First Notice, Opinion and Order.

By a vote of 6-0, an order advising the Petitioner that unless a motion for voluntary dismissal or an open waiver of the Board's decision deadline is filed before February 25, 1994, the case will be subject to dismissal for want of prosecution, was adopted in #93-183, Edgewater Beach Apartments. (GTG)

In amended petition #94-43, American Tree Service, these actions were taken by a vote of 6-0: Petitioner's filing will be treated as a motion to correct the caption instead of an amended petition due to the lack of any substantive change to the original petition and the Board granted said motion, Clerk of the Board was directed to correct the caption to reflect that the Petitioner is incorporated in the State of Delaware, and the Board granted the Agency's motion for an extension of time until February 16, 1994 to file the Agency record. (CAM)

In new cases these actions were taken by a vote of 6-0: ##94-2, Anne Shepard, James Verhein, and Jerold Leckman v. Northbrook Sports Club, and Village of Hainesville, held for duplicitious/frivolous determination; 94-51, Rodney B. Nelson, III, M.D. v. Kane County, Kane County Board and Waste Management of Illinois, accepted for hearing and consolidated with PCB 94-58, order by C.A. Manning.

In new case #94-52, People of the State of Illinois v. Jays Foods, Inc., these actions were taken by a vote of 5-0: The Clerk of the Board was 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 request until after the statutory 21 day notice has passed, E. Dunham abstained, order by C.A. Manning.

In new cases, these actions were taken by a vote of 6-0: David Geuther and Fehr-Graham & Associates (Dave's Standard Service) v. EPA, no action taken; 94-54, Central Illinois Public Service Company (Newton Power Station) v. EPA, accepted for hearing, order by C.A. Manning; 94-55, Myrtle Landwehrmeier v. EPA, accepted for hearing, order by C.A. Manning; 94-56, People of the State of Illinois v. Land O'Frost, Inc., 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 request until after the statutory 21 day notice has passed, order by C.A. Manning; 94-57, Central Illinois Public Service Company (Coffeen Power Station) v. EPA, accepted for hearing, order by C.A. Manning; 94-58, City of Geneva v. Waste Management of Illinois, Inc. and County Board, County of Kane, State of Illinois, accepted for hearing and consolidated with PCB 94-51, order by C.A. Manning; 94-59, People of the State of Illinois v. Acme Barrel Company, Inc., 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 request until after the statutory 21 day notice has passed, order by C.A. Manning; 94-60, Mobil Oil Corporation v. EPA, accepted for hearing and Petitioner's motion for an expedited review was granted given the statutory constraints of public notice, order by C.A. Manning; 94-61, Produce Wagon, Inc. v. EPA, accepted for hearing, order by C.A. Manning; 94-62, Smith Oil Company v. EPA, provisional variance granted, order by C.A. Manning; 94-63, T.M.L. Associates, Inc. v. EPA, provisional variance granted, order by C.A. Manning; 94-64, Mobil Oil Corporation v. EPA, provisional variance granted, order by C.A. Manning; 94-65, Hertz Corporation v. EPA, provisional variance granted, order by C.A. Manning; 94-66, State Oil Company v. EPA, provisional variance granted, order by C.A. Manning; 94-67, Delta Sonic Carwash Systems, Inc. v. EPA, provisional variance granted, order by C.A. Manning; 94-68, Graham C-Stores Company v. EPA, provisional variance granted, order by C.A. Manning; 94-69, Marathon Oil Company v. EPA, provisional variance granted, order by

C.A. Manning; 94-70, Amoco Oil Company v. EPA, provisional variance granted, order by C.A. Manning; 94-71, Warner Lambert Company v. EPA, provisional variance granted, order by C.A. Manning.

These Administrative Citations were accepted by the Board: ##94-6, Sangamon County v. D. Ray Smith; 94-7, Williamson County Solid Waste Office v. Gerald Baltzell; 94-8, EPA v. Atkinson Landfill Company; 94-9, EPA v. City of Jacksonville; 94-10, County of DuPage v. Waste Management of Illinois.

By a vote of 6-0, this amended Adjusted Standard was accepted for hearing: #93-8, Akzo Chemicals. (GTG)

These new Adjusted Standards were received by the Board: ##94-1, Petition of Illinois Wood Energy Partners, L.P.; 94-2, Petition of Solar Corporation; 94-3, Petition of Outboard Marine Corporation (OMC Waukegan Facility); 94-4, Petition of Chase Products Company; 94-5, Petition of Abbott Laboratories; 94-6, Petition of Hydrosol, Inc..

An Order granting the Petitioner's motion to extend the stay until May 17, 1994, was adopted in #AS 93-1, Quantum Chemical Corporation, by a vote of 6-0. (CAM)

An Order reminding the Village of Summit that failure to timely file the record may subject it to sanctions, and the Board on its own motion, granted the Village an extension of time to file through February 24, 1994, was adopted in ##94-19, -21, -22, Village of Summit and West Suburban Recycling and Energy Center, by a vote of 6-0. (McF)

Minutes of the February 3, 1994 Board Meeting were approved by a vote of 6-0.

All other matters not disposed of as listed were ordered held to March 3, 1994 for possible consideration.

					, Clerk							
Board	1, 1	hereby	cert.	ify th	at the	above	e Minu	tes we	re app	roved	thi	.s
				day	of					1994	by	a
vote	of.				.•							

Dorothy M. Gunn, Clerk Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD FINAL AGENDA FEBRUARY 17, 1994 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 A.M.

ADDENDUM

AS 93-1 Quantum Chemical Corporation - Petitioner's Motion to Extend Stay (2/15) (CAM) 94-19) Village of Summit - Board Order (MMcF) 94-21) 94-22) 94-27 Marathon Oil Company - Agency motion to Extend Time to file Agency Recommendation (2/15) (RCF)

ILLINOIS POLLUTION CONTROL BOARD FINAL AGENDA FEBRUARY 17, 1994 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 A.M.

DECISIONS:

K) .

AS	92-8	Cabot Corporation (RCF)
AS	93-7	Keystone Steel and Wire (ED)
*	93-60) 93-61)	Industrial Salvage, Inc. (RCF) (due)
	93-118	People of the State of Illinois v. Marsco Manufacturing Company (MMcF) (Stipulation)
	94-16	People of the State of Illinois v. Central Illinois Public Service (Newton Unit #1 and #2) (CAM) (Stipulation)
	94-17	People of the State of Illinois v. Olin Corporation (CAM) (Stipulation)
	94-20	People of the State of Illinois v. Gerald V. Johnson, d/b/aJerry's (CAM) (Stipulation)
	94-39	People of the State of Illinois v. Top Disposal Service, Inc. (CAM) (Stipulation)
	R93-26	Amendments to the New Source Review Rules, Proposed Rule, Second Notice, Opinion and Order (GTG)

^{*} INDICATES VARIANCE OR PERMIT APPEAL

DECISIONS:	(Cont'd)
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R93-28 Stage II Vapor Recovery in the Metro-East Area: Repeal of 35 Ill. Adm. Code 219.586, Adopted Rule, Final Order, Opinion and Order (RCF)

AC DEFAULT ORDERS:

93-65	EPA v. Gallatin National Company
93-66	EPA v. Orville Bartels
94-2	Sangamon County v. Lillie Moreland

MOTIONS:

- AC 93-36

 Royanne Grooms and Randy Rowe Agency Motion to Vacate October 7, 1993 Default Order (2/10)(CAM)

 AC 93-46

 Robert C. Waldron, Jr. Motion to Reconsider November 18, 1993 Default Order (See Respondent's
- AS 88-2 <u>Stepan Company</u> Petitioner's Motion to File Status Report in Response to December 16, 1993 Board Order Instanter (2/14) (CAM)

letter filed 1/31) (CAM)

- AS 93-1 <u>Quantum Chemical Corporation</u> Petitioner's Status Report in Response to December 16, 1993 Board Order (2/1) (CAM)
 - 89-184 <u>The Grigoleit Company</u> Petitioner's Motion for Order Assessing Sanctions (12/15)(CAM)

MOTIONS:	(Cont'd)
91-7 92-25	Land and Lakes Company - Petitioners' Motion for Release of Record (2/2), Intervenor's (County of Will) Response to Petitioners' Motion for Release of Record (2/15)(CAM)
91-195	Scott and Karen Thomas - Respondent's Motion for Leave to File Instanter Reply to Complainants' Response to Consultants' Report and Recommendations (1/27) (ED)
91-206	Clayton Chemical Company - Petitioner's Status Report in Response to November 4, 1993 Board Order (2/4)(JTM)
92-67	Escast, Inc Complainant's Status Report in Response to November 18, 1993 Board Order (1/18), Complainant's Status Report (1/21) (RCF)
92-108	The OK Trucking Company - Petitioner's Status Report in Response to October 21, 1993 Board Order (2/9) (ED)
92-164	Berniece and Darwin Kershaw - Status Report in Response to December 16, 1993 Board Order (2/4) (GTG)
92-168	Edwards-Etherton Oil Company - Petitioner's Status Report in Response to November 4, 1993 Board Order (2/8)(CAM)
92-176	Central Can Company - Joint Status Report in Response to November 4, 1993 Board Order (2/2)(JTM)
92-184	Braun's Standard Service - Petitioner's Status Report in Response to November 4, 1993 Board Order (2/8)(CAM)
92-205	<u>Douglas Furniture</u> - Petitioner's Motion to Dismiss (2/7) (RCF)
92-211	<u>Safety-Kleen Corporation</u> - Status Report Order (JTM)

MOTIONS:	(Cont'd)
92-216	U.S. Department of the Army - Agency Motion for Leave to file Status Report Instanter in Response to February 3, 1994 Board Order (2/14)(CAM)
93-17	Southern California Chemical - Petitioner's Supplemental Status Report in Response to January 20, 1994 Board Order (2/14) (RCF)
93-122	Emro Marketing Company - Petitioner's Status Report in Response to January 6, 1994 Board Order (2/7) (ED)
93-124	Tolles Realty Company - Petitioner's Status Report in Response to July 1, 1993 Board Order (1/3), Petitioner's Motion for Summary Judgment (1/14), Agency Motion for Leave to File Instanter and Agency Response to Petitioner's Motion for Summary Judgment and Counter Motion for Summary Judgment (2/3), Petitioner's Motion for Extension of Time to Reply to the Agency's Response to its Motion for Summary Judgment and Counter Motion for Summary Judgment (2/15) (ED)
93-138	Safety-Kleen Corporation - Board Order (ED)
93-139	The Ensign-Bickford Company - Agency Motion to Extend Time to File Agency Recommendation (2/2)(CAM)
93-159	<u>Perma-Treat of Illinois</u> - Agency Motion for Reconsideration of December 16, 1993 Board Order (1/24), Petitioner's Response to Agency Motion for Reconsideration (2/7)(GTG)
93-233	Enviropur Waste Refining - Petitioner's Motion to Voluntarily Dismiss Petition for Review (2/4) (GTG)
93-264	Nu-Tecsys Corporation - Joint Stipulation of Settlement and Dismissal (2/8)(CAM)

MOTIONS:	(Cont'd)					
94-24	North Shore School District #112 - Petitioner's Motion to Dismiss (2/7)(CAM)					
94-26	Marathon Oil Company - Petitioner's Application for Designation as "Not Subject to Disclosure" (1/14) (RCF)					
94-27	Marathon Oil Company - Petitioner's Application for Designation as "Not Subject to Disclosure" (1/14) (RCF)					
DISCUSSIO	: :					
92-80	Lake County Forest Preserve District (JTM)					
92-200	Ron's Interstate Sunoco (RCF) (open waiver)					
93-151	Mobil Oil Corporation (JTM) (due 3/3)					
93-158	Wheaton Park District (CAM) (due 3/3)					
93-183	Edgewater Beach Apartments (GTG) (due 3/3)					
REGULATOR	Y DISCUSSIONS:					
R93-16	RCRA Udate, USEPA Regulations (January 1, 1993 through June 30, 1993), Adopted Rule, Final Order, Opinion and Order (ED)					
R93-24	Amendments to the Rules for Clean Air Act Permit Appeals and Hearings Pursuant to Specific Rules 35 Ill. Adm. Code Parts 105 and 106, Proposed Rule, Final Order, Opinion and Order (GTG)					
R93-29	Regulation of Landscape Waste Compost Facilities 35 Ill. Adm. Code 830 - 832, Proposed Rule, First Notice, Opinion and Order (MMcF)					

AMENDED PETITIONS:

American Tree Service (filed 2/3) (See also Agency Motion to Extend Time to File Agency Record filed 2/14) (CAM)

NEW CASES:

- Anne Shepard, James Verhein, and Jerold Leckman v. Northbrook Sports Club, and Village of Hainesville (See also Northbrook Sports Club's Motion to Dismiss as Frivolous filed 1/26; Village of Hainesville's Motion to Dismiss filed 1/27; Northbrook Sports Club's Supplemental Memorandum in Support of Motion to Dismiss as Frivolous filed 1/28; Complainants' Request for Admission of Genuineness of Document, Request for Documents, and Request for Admission of Fact filed 2/1) (GTG)
- 94-51 Rodney B. Nelson, III, M.D. v. Kane County, Kane County Board and Waste Management of Illinois (CAM)
- People of the State of Illinois v. Jays Foods, Inc. (See Agreed Motion to Request Relief from Hearing Requirement filed 2/2) (CAM)
- 94-53 David Geuther and Fehr-Graham & Associates (Dave's Standard Service) v. EPA
- 94-54 Central Illinois Public Service Company (Newton Power Station) v. EPA (CAM)
- 94-55 Myrtle Landwehrmeier v. EPA (CAM)
- 94-56 People of the State of Illinois v. Land O'Frost, Inc. (See also Agreed Motion to Request Relief from Hearing Requirement filed 2/7) (CAM)

NEW CASE	<u>s</u> : (Cont'd)
94-57	Central Illinois Public Service Company (Coffeen Power Station) v. EPA (CAM)
94-58	City of Geneva v. Waste Management of Illinois, Inc. and County Board, County of Kane, State of Illinois (CAM)
94-59	People of the State of Illinois v. Acme Barrel Company, Inc. (See also Agreed Motion to Request Relief from Hearing Requirement filed 2/9) (CAM)
94-60	Mobil Oil Corporation v. EPA (See also Petitioner's Motion for Expedited Review and Request for Hearing filed 2/14) (CAM)
94-61	Produce Wagon, Inc. v. EPA
94-62	Smith Oil Company v. EPA (Provisional Variance)
94-63	T.M.L. Associates, Inc. v. EPA (Provisional Variance)(CAM)
94-64	Mobil Oil Corporation v. EPA (Provisional Variance)
94-65	Hertz Corporation v. EPA (Provisional Variance)
94-66	State Oil Company v. EPA (Provisional Variance)
94-67	Delta Sonic Carwash Systems, Inc. v. EPA (Provisional Variance) (CAM)
94-68	Graham C-Stores Company v. EPA (Provisional Variance) (CAM)
94-69	Marathon Oil Company v. EPA (Provisional Variance)
94-70	Amoco Oil Company v. EPA (Provisional Variance)

NEW CASES	: (Cont'd)
	Warner Lambert Company v. EPA (Provisional Variance)(CAM)
NEW AC CA	SES:
94-6	Sangamon County v. D. Ray Smith
94-7	Williamson County Solid Waste Office v. Gerald Baltzell
94-8	
94-9	EPA v. City of Jacksonville
94-10	County of DuPage v. Waste Management of Illinois
AMENDED A 93-8	DJUSTED STANDARDS: Akzo Chemicals (filed 2/2)(GTG)
NEW ADJUS	TED STANDARDS:
94-1	Petition of Illinois Wood Energy Partners, L.P.
94-2	Petition of Solar Corporation
94-3	Petition of Outboard Marine Corporation (OMC Waukegan Facility)
94-4	Petition of Chase Products Company
94-5	Petition of Abbott Laboratories

94-6 Petition of Hydrosol, Inc.