#### ILLINOIS POLLUTION CONTROL BOARD

### MINUTES OF REGULAR BOARD MEETING OCTOBER 20, 1994 CHICAGO, ILLINOIS

After calling the meeting to order, Acting Chairman J. Theodore Meyer, noted the absence of Chairman Claire A. Manning due to illness, and asked the Clerk for a roll call, and all Board Members in attendance answered present. Board Member Joseph Yi abstained from participating in the decision or discussion of any matter on the Agenda.

An Interim Opinion and Order assessing a penalty in the amount of \$15,000.00, was adopted in #93-58, People of the State of Illinois v. L. Keller Oil Properties, Inc., by a vote of 5-0. Board Member M. McFawn concurred. (JTM)

An Opinion and Order was adopted in #93-196, TRW, Inc., by a vote of 5-0. (JTM)

An Opinion and Order was adopted in #94-177, Burlington Environmental, by a vote of 5-0. (ED)

An Opinion and Order was adopted in #94-194, Freeman United Coal Mining, by a vote of 5-0. (GTG)

In R94-11, Procedural Rules Revisions: Appeals from Office of State Fire Marshal Eligibility-Deductibility Determination, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 5-0. (CAM) (MCF) (JTM)

In R94-15, 15% ROP Plan Control Measures for VOM Emissions - Part II Marine Vessel Loading: Amendments to 35 Ill. Adm. Code Parts 211, 218 and 219, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 5-0. (GTG)

In R94-16, 15% ROP Plan Control Measures for VOM Emissions - Part III: Air Oxidation and Organic Emissions from Storage and Loading Operations: Amendments to 35 Ill. Adm. Code Parts 211, 218 and 219, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 5-0. (ED)

In R94-17, RCRA Subtitle C Update, USEPA Regulations (January 1, 1994 through June 30, 1994), an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 5-0. (ED)

In R94-19, Enhanced Vehicle Inspection & Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240, a Proposed Rule, Second Notice, Opinion and Order was adopted by a vote of 5-0. (GTG)

A Default Order was adopted in this Administrative Citation by a

vote of 5-0: #94-77, EPA v. Robert Best.

An Order denying the Respondents' motion to vacate an August 11, 1994 Default Order, was adopted in #AC 94-42, Wayne and Sharon Alberts, by a vote of 5-0. (McF)

An Order renewing the stay of the proceedings until December 1, 1994, and directing the Petitioner to file a timely status report on or before November 22, 1994, was adopted in #AS 88-2, Stepan Company, by a vote of 5-0. (McF)

An Order granting an agreed motion to extend the time until October 27, 1994, for the Petitioner to file its response to the Agency's motion for reconsideration of the Board's May 19, 1994 Board Order, was adopted in #90-24, Rock-Ola Manufacturing, by a vote of 5-0. (GTG)

An Order directing the parties to file status reports on or before November 18, 1994, which status reports shall indicate the present status of any negotiations and if the parties desire to proceed to a review of the record in the matter, and advising the parties that if they request that the Board proceed to a decision on the record, to address whether any additional hearings or filings are necessary to update the record, was adopted in #91-38, American Waste Processing, by a vote of 5-0. (ED)

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 #91-122, Condecor, Inc., by a vote of 5-0. (GTG)

An Order directing the parties to file status reports with the Board on or before December 9, 1994, and advising the parties that absent an additional waiver, the Board must decide the matter based on the record at its January 12, 1995 meeting, was adopted in #91-202, Sherex Chemical Company, by a vote of 5-0. (ED)

An Order accepting the parties' joint status report, directing the parties to file an additional joint status report with the Board on or before January 6, 1995, and advising the parties that they may file a stipulated settlement agreement in lieu of a status report if one is negotiated before the above date, was adopted in #93-3, Archer Daniels Midland, by a vote of 5-0. (MCF)

An Order accepting the Petitioner's status report and directing the filing of a new status report to be filed with the Board and the Hearing Officer on or before December 5, 1994, was adopted in #93-17, Phibro-Tech, Inc., by a vote of 5-0. (RCF)

An Order granting the Agency's motion to file the record instanter, was adopted in #93-205, Safety-Kleen (Dolton Recycle Center), by a vote of 5-0. (GTG)

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 #93-261, Midwest Refinishing, Inc., by a vote of 5-0. (ED)

An Order granting the Petitioner's motion to withdraw its petition, was adopted in #94-25, Shell Oil Company, by a vote of 5-0. (ED)

An Order granting the Petitioner's motion to dismiss, was adopted in #94-26, Marathon Oil Company, by a vote of 5-0. (RCF)

An Order denying the Petitioner's motion for reconsideration of the August 11, 1994 Board Order, was adopted in #94-160, BTL Specialty Resins, by a vote of 5-0. (McF)

An Order granting the Respondent's motion to file its answer and affirmative defenses to the complaint instanter, was adopted in #94-178, Herrin Security Bank, by a vote of 5-0. (JTM)

An Order denying the joint motion for rehearing, was adopted in #94-203, Citizens Utilities Company et al., by a vote of 5-0. (GTG)

An Order granting the Petitioner's motion to withdraw its appeal, was adopted in #94-208, A.E. Staley Manufacturing Company, by a vote of 5-0. (McF)

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 #94-221, Harper Oil Company, by a vote of 5-0. (MCF)

An Order granting the Agency's motion to file the record instanter, was adopted in #94-234, Amoco Oil Company, by a vote of 5-0. (MCF)

An Order granting the Agency's motion to file the record instanter, was adopted in #94-235, Amoco Oil Company, by a vote of 5-0. (RCF)

An Order granting the Agency's motion to file the record instanter, was adopted in #94-243, ESG Watts, Inc., by a vote of 5-0. (JTM)

An Order finding that the written objection filed by Carolyn Van Opdorp, was not sufficient to trigger a mandatory hearing, however, upon its own discretion, and pursuant to Section 37(a) of the Act, the Board concluded that a hearing would be advisable in the matter and accordingly, will set the matter for a public hearing, was adopted in #94-259, Atkinson Landfill Company, by a vote of 5-0. (RCF)

No action was taken by the Board on an objection filed in #94-263,

Amoco Oil Company, since the case has been accepted for hearing.

An Order granting the Petitioner's motion for an extension of the stay for an additional 90 days, directing the Petitioner to file a status report on or before January 6, 1995, which shall indicate the status of the negotiations with the USEPA, whether additional time will be necessary to proceed with the rulemaking, and directing the Petitioner to file an appropriate motion withdrawing its petition for a site-specific rule in the event that settlement is reached sooner than anticipated, was adopted in R81-19, Citizens Utilities Company, by a vote of 4-0. Board member R.C. Flemal abstained. (MCF)

An Order extending the stay of the matter until January 12, 1995, directing the parties to file an additional status report with the Clerk of the Board and the Hearing Officer, on or before December 23, 1994 identifying the progress of the negotiations in the matter, and advising the parties that the Board and the Hearing Officer will determine the timing and sequence of further action upon the receipt of the next status report, was adopted in R90-1(C), Toxic Air Contaminant List, Reporting Requirements, by a vote of 5-0. (MCF)

These cases were discussed and ordered held to November 3, 1994 for further discussion or possible decision: ##86-2, City of LaSalle CSO; 86-4, City of Morris CSO; 93-128, National Coatings.

These regulatory matters were discussed and ordered held to November 3, 1994 for further discussion or possible decision: R93-29, Regulation of Landscape Waste Compost Facilities, 35 Ill. Adm. Code 830-832, Adopted Rule, Final Order, Opinion and Order; R94-5, UIC Update, USEPA Regulations (July 1, 1993 through December 31, 1993), Adopted Rule, Final Order, Opinion and Order.

In new cases these actions were taken by a vote of 5-0: ##94-240, International Union, United Automobile Aerospace and Agricultural Implement Workers of America and UAW Local 974, and Citizens For a Better Environment v. Caterpillar, Inc., held to November 3, 1994 Board meeting; 94-256, DoAll Company, DoAll Credit Corporation, and The Rams-Head Company v. Mobil Oil Company, Inc., Skokie Valley Asphalt Company, Inc., and Septran, Inc., Respondent Mobil Oil's motion to file its motion to dismiss the complaint instanter was granted and the Petitioners' were granted an extension of time until October 27, 1994 to file a response to the motion to dismiss, Order by M. McFawn; 94-279, Inspiration Development Company v. EPA, Agency motion to dismiss was denied and additional information requested, Order by J. Theodore Meyer; 94-281, Resourceful Environmental Ideas v. EPA, held to November 3, 1994 Board meeting; 94-287, Indian Refining Limited Partnership v. EPA, accepted for hearing, Order by M. McFawn; 94-288, People of the State of Illinois v. Grayslake Gelatin Company, Blidco, Inc., Construction Company, Inc., and Diversified Abatement Contractors,

Inc., hearing mandatory; 94-290, The Bank of Illinois in DuPage v. EPA, accepted for hearing, Order by G. Tanner Girard; 94-291, People of the State of Illinois v. The Art Institute of Chicago, Clerk of the Board directed to cause publication of the required newspaper notice of the parties' motion to request relief from the hearing requirement, Order; 94-292, Ernie and Frank Tagliere, d/b/a Ravinia Auto Service Center, accepted for hearing, Order; 94-293, Runnfeldt & Belmont v. EPA, provisional variance granted, Order by M. McFawn; 94-294, Mobil Oil Corporation v. EPA, provisional variance granted, Order by M. McFawn; 94-295, RTC Industries, Inc. v. EPA, accept for hearing, Order; R94-29, Indian Refining Limited Partnership Site-Specific Rule, additional information requested, Order by M. McFawn; R94-30, Commonwealth Edison Company Site-Specific Regulation for Existing Landfills and Units: 35 Ill. Adm. Code 811-814, held to November 3, 1994 Board meeting.

By a vote of 4-1, new case #94-289, Montgomery Ward & Company, Inc. v. EPA, was dismissed for lack of jurisdiction to hear the appeal. Board Member R.C. Flemal dissented. (MCF)

Because a Petition For Review was filed, this Administrative Citation was accepted for hearing: #94-76, Sangamon County v. SLC of Springfield, Inc..

These new Administrative Citations were accepted by the Board: ##94-90, Sangamon County v. ESG Watts, Inc.; 94-91, Sangamon County v. ESG Watts, Inc.; 94-92, County of DuPage v. Waste Management of Illinois.

Minutes of the October 6, 1994 Minutes were approved by a vote of 5-0.

#### **ADDENDUM**

An Order granting the Petitioner's motion to extend the time until November 2, 1994, to file an amended petition, was adopted in #AS 94-1, Illinois Wood Energy Partners, by a vote of 5-0. (MCF)

An Order staying the proceedings until December 19, 1994, and directing the parties to file a status report with the Board on or before January 5, 1995, was adopted in #94-125, Beloit Corporation, by a vote of 5-0. (ED)

This regulatory matter was discussed and ordered held to November 3, 1994 Board meeting for further discussion or possible decision: R94-20, Enhanced Vehicle Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240, Proposed Rule, Second Notice, Opinion and Order.

In new cases these actions were taken by a vote of 5-0: ##94-296,

People of the State of Illinois v. American Circuit Systems, Inc., Clerk of the Board directed to cause publication of the required newspaper notice of the parties' agreed motion to request relief from the hearing requirement, Order; 94-297, J.M. Sweeney Company v. EPA, accepted for hearing, Order; 94-298, Amoco Oil Company, O'Hare Terminal v. EPA, provisional variance granted, Order by M. McFawn; 94-299, P & S, Inc. v. EPA, accepted for hearing, Order; 94-300, Borden Chemicals and Plastics v. EPA, provisional variance granted, Order by M. McFawn.

Because Petitions For Review were filed, these Administrative Citation Appeals were accepted for hearing: ##94-90, Sangamon County v. ESG Watts, Inc.; 94-91, Sangamon County v. ESG Watts, Inc..

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

Dorothy M Gunn, Clerk

Illinois (Pollution Control Board

# ILLINOIS POLLUTION CONTROL BOARD FINAL AGENDA OCTOBER 20, 1994 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 A.M.

#### <u>ADDENDUM</u>

94-1	Illinois Wood Energy Partners - Petitioner's Motion to Extend Time (10/19)(CAM)
94-125	Beloit Corporation - Joint Status Report in Response to July 21, 1994 Board Order (10/19) (ED)
94-203	<u>Citizens Utilities Company</u> - Agency's Response to the Petitioners' Joint Motion for Rehearing (10/19) (GTG)
94-279	<pre>Inspiration Development Company - Agency's Motion to Dismiss (10/19)(JTM)</pre>
REGULATO	Enhanced Vebhicle Inspection and Maintenance (I/M Regulations: Amendments to 35 Ill. Adm. Code Par
	240, Proposed Rule, Second Notice, Opinion and Order (GTG)
NEW CASE	Order (GTG)
NEW CASE 94-296	Order (GTG)
	S:  People of the State of Illinois v. American Circuit Systems, Inc. (See Agreed Motion to Request Relief from the Hearing Requirement filed

## FINAL AGENDA OCTOBER 20, 1994 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 A.M.

#### **DECISIONS:**

AC	91-32 (B)	Rochelle Disposal Service, Inc. and City of Rochelle, Illinois (CAM)
AC	92-64 (B)	Rochelle Disposal Service, Inc. and City of Rochelle, Illinois (CAM)
AC	93-42	Norman Clark and Brenda Bertrand (GTG)
	93-58	L. Keller Oil Properties (JTM)
*	93-196	TRW, Inc. (JTM) (due 10/20)
*	94-138	Continental Waste Industries (ED) (due)
*	94-177	Burlington Environmental (ED) (due 11/3)
*	94-194	Freeman United Coal Mining (GTG) (due 11/3)
	R94-11	Procedural Rules Revisions: Appeals from Office of State Fire Marshal Eligibility/Deductibility Determination, Adopted Rule, Final Order, Opinion and Order (CAM) (McF) (JTM)
	R94-15	15% ROP Plan Control Measures for VOM Emissions - Part II Marine Vessel Loading: Amendments to 35 Ill. Adm. Code Parts 211, 218 and 219, Adopted Rule, Final Order, Opinion and Order (GTG)

<sup>\*</sup> INDICATES VARIANCE OR PERMIT APPEAL

#### DECISIONS: (Cont'd)

- R94-16

  15% ROP Plan Control Measures for VOM Emissions Part III: Air Oxidation and Organic Emissions from
  Storage and Loading Operations: Amendments to 35
  Ill. Adm. Code Parts 211, 218, and 219, Adopted
  Rule, Final Order, Opinion and Order (ED)
- R94-17 RCRA Subtitle C Update, USEPA Regulations (January 1, 1994 through June 30, 1994), Adopted Rule, Final Order, Opinion and Order (ED)
- R94-19 Enhanced Vehicle Inspection & Maintenance (I/M)
  Regulations: Amendments to 35 Ill. Adm. Code Part
  240, Proposed Rule, Second Notice, Opinion and
  Order (GTG)\_\_\_\_\_\_

#### AC DEFAULT ORDERS:

94-77 EPA v. Robert Best\_\_\_\_\_

#### MOTIONS:

- AC 94-20 Waste Management of Illinois Respondent's Motion to Strike (10/11)(ED)
- AC 94-42 <u>Wayne and Sharon Alberts</u> Respondent's Motion to Vacate Order (9/6) (CAM)
- AS 88-2 <u>Stepan Company</u> Petitioner's Status Report in Response to September 1, 1994 Board Order (10/12) (CAM)
  - 90-24 Rock-Ola Manufacturing Agency motion for Reconsideration of May 19, 1994 Board Order (6/28), Agreed Motion to Extend the Time for Petitioner to file its Response to the Agency's Motion for Reconsideration (10/6)(GTG)
  - 91-38 <u>American Waste Processing</u> Petitioner's Motion to Stay Review of the Record (10/14)(ED)

MOTIONS:	(Cont'd)
91-122	Condecor, Inc Complainant's Motion to Request Relief From Hearing Requirement and Stipulation and Proposal for Settlement (10/11) (GTG)
91-202	<u>Sherex Chemical Company</u> - Petitioner's Status Report in Response to September 15, 1994 Board Order (10/13)(ED)
93-3	Archer Daniels Midland - Complainant's Status Report in Response to August 11, 1994 Board Order (10/11)(CAM)
93-17	Phibro-Tech, Inc Petitioner's Status Report in Response to August 11, 1994 Board Order (10/6) (RCF)
93-205	Safety-Kleen (Dolton) - Agency Motion to File Record Instanter (10/17) (GTG)
93-261	Midwest Refinishing - Agreed Motion to Request Relief from the Hearing Requirement (10/13)(ED)
94-18	City of Wheaton - Petitioner's Motion to Vacate September 1, 1994 Opinion and Order of the Board and Memorandum in Response to the Office of the State Fire Marshal's Motion for Summary Judgment (10/4)(CAM)
94-25	Shell Oil Company - Petitioner's Motion to Withdraw Petition (10/7)((ED)
94-26	<pre>Marathon Oil Company - Petitioner's Motion to Dismiss (10/6)(RCF)</pre>

#### MOTIONS: (Cont'd)

- 94 43American Tree Service - Motion to File a Limited Appearance and Submit the Statement of Springfield Airport Authority (9/13), Joint Motion for Leave to File Joint Stipulation of Facts Instanter (9/15), Agency Motion for Summary Judgment and Memorandum in Support of Motion for Summary Judgment (9/22), Petitioner's Motion for Summary Judgment Memorandum in Support of Motion for Summary Judgment (10/5), Petitioner's Motion to Memorandum in Support of Motion for Summary Judgment by Interlineation and Amendment to the Support of Motion for Summary Judgment (10/7), Agency Response to Petitioner's Motion for Summary Judgment and Attached Memorandum in Support of Motion for Summary Judgment (10/11) (CAM)
- James Lee Watts Respondents' Motion for Summary Judgment and Memorandum of Law in Support of Motion for Summary Judgment (9/26), Respondents' Motion to Dismiss or in the Alternative Motion for Summary Judgment (9/29), Complainant's Response to Respondents' Motion for Summary Judgment (9/30), Complainant's Response to Respondents' Motion to Dismiss (10/6), Complainant's Request for Leave to File Superseding Complaint (10/14)(GTG)
- 94-155 <u>Cabot Corporation</u> Petitioner's Motion for Modification of September 15, 1994 Board Order (10/14)(JTM)
- 94-160 <u>BTL Specialty Resins</u> Petitioner's Motion to Reconsider August 11, 1994 Board Order (9/15), Petitioner's Motion to Supplement Motion to Reconsider (9/20), Agency's Response to Petitioner's Motion to Reconsider and Petitioner's Motion to Supplement (10/7), Petitioner's Motion for Leave to File Reply Brief (10/17) (McF)
- 94-178 <u>Herrin Security Bank</u> Respondent's Motion for Leave to File Instanter (10/7) (JTM)
- 94-179 <u>Solvent Systems International</u> Respondent's Motion to Supplement Record on Appeal (10/17) (JTM)

MOTIONS:	(Cont'd)	
94-203	<u>Citizens Utilities Company et al.</u> - Joint Motion for Rehearing (10/6)(GTG)	
94-208	A.E. Staley Manufacturing - Petitioner's Motion to Withdraw Appeal (10/11)(CAM)	
94-221	<pre>Harper Oil Company - Motion for Relief from Hearing Requirement (10/14)(CAM)</pre>	
94-234	Amoco Oil Company - Agency Motion to File Record Instanter (10/5) (McF)	
94-235	Amoco Oil Company - Agency Motion to File Record Instanter (10/7) (RCF)	
94-243	ESG Watts, Inc Agency Motion to File Record Instanter (10/4)(JTM)	
94-259	Atkinson Landfill Company - Objection (10/13) (RCF)	
94-263	Amoco Oil Company - Objection (10/18)(CAM)	
R81-19	Citizens Utilities Company - Status Report in Response to October 6, 1994 Board Order and Motion to Further Defer Proceedings (10/11)(CAM)	
R90-1 (C)	Toxic Air Contaminants List, Reporting Requirements Agency Motion to File Status Report in Response to June 23, 1994 Board Order Instanter (10/11) (CAM)	
<u>DISCUSSIONS</u> :		
86-2	City of LaSalle CSO (GTG)	
86-4	City of Morris CSO (RCF)	
93-128	National Coatings (GTG) (due 11/3)	

#### **REGULATORY DISCUSSIONS:**

- R93-29 Regulation of Landscape Waste Compost Facilities, 35 Ill. Adm. Code 830-832, Adopted Rule, Final Order, Opinion and Order (McF)
- R94-5 UIC Update, USEPA Regulations (July 1, 1993 through December 31, 1993), Adopted Rule, Final Order, Opinion and Order (RCF)

#### AMENDED PETITIONS:

94-222 Village of Hoffman Estates (filed 9/30) (CAM)

#### **NEW CASES:**

- International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and UAW Local 974, and Citizens For a Better Environment v. Caterpillar, Inc. (See Respondent's Motion to Dismiss filed 9/20; Complainants' Memorandum in Opposition to Respondent's Motion to Dismiss filed 10/11) (CAM)
- DoAll Company, DoAll Credit Corporation, and The Rams-Head Company v. Mobil Oil Company, Inc., Skokie Valley Asphalt Company, Inc., and Septran, Inc. (See also Mobil Oil Company's Motion for Leave to File Instanter its Motion to Dismiss Complaint filed 10/11) (McF)
- 94-279 Inspiration Development Company v. EPA
- 94-281 Resourceful Environmental Ideas v. EPA (CAM)
- 94-287 Indian Refining Limited Partnership v. EPA (McF)

NEW CASES: (Cont'd)		
94-288	People of the State of Illinois v. Grayslake Gelatin Company, Blidco, Inc., ACME Construction Company, Inc., and Diversified Abatement Contractors, Inc. (ED)	
94-289	Montgomery Ward & Company, Inc. v. EPA (CAM)	
94-290	The Bank of Illinois in DuPage v. EPA (GTG)	
94-291	People of the State of Illinois v. The Art Institute of Chicago (See Motion to Request Relief From Hearing Requirement filed 10/11)	
94-292	Ernie and Frank Tagliers, d/b/a Ravinia Auto Service Center v. EPA	
94-293	Runnfeldt & Belmont v. EPA (Provisional Variance) (CAM)	
94-294	Mobil Oil Corporation v. EPA (Provisional Variance) (CAM)	
94-295	RTC Industries, Inc. v. EPA	
R94-29	Indian Refining Limited Partnership Site-Specific Rule (McF)	
R94-30	Commonwealth Edison Company Site-Specific Regulation for Existing Landfills and Units: 35 Ill. Adm. Code 811-814 (See Petitioner's Request for Waiver of the 200 Signature Requirement filed 10/17 and Petitioner's Request for Waiver of the Requirement that Petitioner file Ten Copies of Exhibit 12 filed 10/17)	

#### AC APPEALS:

94-76 Sangamon County v. SLC of Springfield, Inc. (JTM)

#### NEW AC CASES:

94-90	Sangamon County v. ESG Watts, Inc			
94-91	Sangamon County v. ESG Watts, Inc			
94-92	County of DuPage v. Waste Management of Illinois			
NEW ADJUSTED STANDARDS:				
94-14	Petition of the City of Wood River (ED)			
94-15	Petition of Lone Star Industries, Inc. (See Petitioner's Motion to be Relieved of Compliance with 35 Ill. Adm. Code Section 101.106 filed 10/4)			

#### MINUTES:

October 6, 1994\_\_\_\_\_