#### ILLINOIS POLLUTION CONTROL BOARD

#### MINUTES OF REGULAR BOARD MEETING JANUARY 4, 1996 CHICAGO, ILLINOIS

After calling the meeting to order, Chairman Manning welcomed members of the public and staff to the meeting. Thereafter, the Clerk was asked for a roll call and all Board Members answered present.

Minutes of the December 20, 1995 Board meeting were approved by a vote of 7-0.

In R94-1(A) and (B), Triennial Water Quality Review: Amendments to 35 Ill. Adm. Code 302.202, 302.208, 302.212, 302.213, 302.407, 304.122 and 304.301 (Lead, Mercury and Ammonia Nitrogen), a Proposed Rule, Second First Notice, Opinion and Order was adopted by a vote of 7-0. (ED) (CAM) (RCF)

An Order accepting the Agency's response to the petitioner's amended petition for an adjusted standard filed in AS 95-8, as the recommendation in #AS 96-5, and noting that a hearing was waived and no objection has been received, was adopted in #AS 96-5, Petition of the Illinois Department of Transportation, District 8 for an Adjusted Standard from 35 Ill. Adm. Code 304.124, by a vote of 7-0. (GTG)

An Order granting the petitioner's voluntary withdrawal of its petition for an adjusted standard, was adopted in #AS 96-2, Petition of Western Lion Limited for an Adjusted Standard from 35 Ill. Adm. Code Part 814, Subpart C, by a vote of 7-0. (RCF)

An Opinion and Order accepting the Stipulation and Proposal for Settlement in the amount of \$5,000.00, was adopted in #96-120, People of the State of Illinois v. Dealers Ready Mix Company, d/b/a Frams Material Corporation, by a vote of 6-1. Board Member J. Theodore Meyer dissented.

An Opinion and Order was adopted in #AC 95-6, IEPA v. A-Reliable Auto Parts and Wreckers, by a vote of 6-1. Chairman C.A. Manning dissented. (ED)

Default Orders were adopted in these Administrative Citations by a vote of 7-0: ##96-23, IEPA v. Paul Bunyon and Charles Groszek; 96-24, County of Jackson v. Randy McBride; 96-25, Will County v. RWS Development Corporation.

This Administrative Citation was accepted by the Board: #96-32, County of Vermilion, Illinois v. Illinois Landfill, Inc..

An Order accepting the joint settlement agreement and granting the motion to dismiss, was adopted in #94-157, Community Trust Bank v. IEPA, by a vote of 7-0. (GTG)

An Order denying the respondent's motion to dismiss, granting the respondent's motion to appear Pro Hoc Vice, granting the complainant's motion to file instanter its response to the respondent's motion to dismiss, granting the respondent's motion for leave to file a reply to the complainant's reply to its motion to dismiss, granting the complainant's motion for leave to file instanter its response to the respondent's motion for leave to reply, and directing the parties to proceed to hearing, was adopted in #95-170, People of the State of Illinois v. Environmental Control and Abatement, Inc., by a vote of 7-0. Board Member E. Dunham concurred. (JY)

An Order granting the petitioner's motion for reconsideration of the Board's December 20, 1995 Order, and upon reconsideration, reinstating docket #PCB 96-52, captioned as Kean Brothers v. IEPA, correcting the caption to accurately name the parties in the matter, applying the \$75.00 filing fee received on December 6, 1995 in #PCB 96-124, toward docket, #PCB 96-52, and accepting the matter for hearing, was adopted in ##96-52, Raleigh Realty Corporation/Kean Brothers, Inc. v. IEPA, by a vote of 6-1. Board Member J. Theodore Meyer dissented. (CAM)

An Order granting the Agency's motion to file the record instanter, was adopted in #96-102, Kathe's Auto Service Center v. IEPA, by a vote of 7-0. (JY)

An Order denying the respondent's motion to dismiss and to make the complaint more definite, was adopted in #96-107, People of the State of Illinois v. ESG Watts, Inc., by a vote of 7-0. (ED)

An Order granting the Agency's motion for an extension of time until March 20, 1996 to file the record, and directing that any future requests for extensions of time be directed to the assigned hearing officer, was adopted in #96-123, Incobrasa Industries, Inc. v. IEPA, by a vote of 7-0. (MCF)

An Order directing the Clerk of the Board to cause publication of the required newspaper notice of the parties agreed motion to request relief from the hearing requirement, was adopted in #96-147, People of the State of Illinois v. Illinois Cement Company, by a vote of 7-0.

#### **ADDENDUM**

An Order granting the petitioner's voluntary withdrawal of its permit appeal, was adopted in #94-332, Western Lion Limited v. IEPA, by a vote of 7-0. (CAM)

#### <u>AGENDA</u>

No action was taken on the petitioner's status report filed in

response to a September 21, 1995 Board Order in #92-108, The OK Trucking Company v. IEPA.

An Order accepting the matter for hearing, was adopted in #96-86, BFI Modern #1 and #2 v. IEPA, by a vote of 7-0.

An Order dismissing the docket as unnecessary, was adopted in #96-87, Dwight #17 v. IEPA, by a vote of 7-0. (CAM)

An Order dismissing the docket as unnecessary, was adopted in #96-89, Gilbert & Bennett Manufacturing Company (Blue Island Facility) v. IEPA, by a vote of 6-0. Board Member M. McFawn abstained. (CAM)

An Order accepting the matter for hearing, was adopted in #96-92, Amoco Oil Company (Elmhurst Facility) v. IEPA, by a vote of 7-0.

An Order dismissing the docket as unnecessary, was adopted in #96-96, General Electric Control Products v. IEPA, by a vote of 7-0. (CAM)

An Order extending the 35-day appeal period, reserving the docket for any appeal which may be filed by the petitioner, noting that in the event that the petitioner fails to file an appeal on or before March 5, 1996, the Board will dismiss the docket as unnecessary, and advising the petitioner that a \$75.00 filing fee will be required at such time as the petitioner files a petition, was adopted in #96-134, Schilling Petroleum Company v. IEPA, by a vote of 7-0. (CAM)

An Order extending the 35-day appeal period, reserving the docket for any appeal which may be filed by the petitioner, noting that in the event that the petitioner fails to file an appeal on or before March 3, 1996, the Board will dismiss the docket as unnecessary, and advising the petitioner that a \$75.00 filing fee will be required at such time as the petitioner files a petition, was adopted in #96-135, Schilling Petroleum Company v. IEPA, by a vote of 7-0. (CAM)

Mandatory hearings will be held in these cases: ##96-136, People of the State of Illinois v. Steve Kulovsek, d/b/a WSH Management Group, and d/b/a Kulovsek Excavating; 96-137, People of the State of Illinois v. Kimball Hill, Inc..

An Order accepting the matter for hearing, was adopted in #96-138, Stepan Company v. IEPA, by a vote of 7-0.

An Order extending the 35-day appeal period, reserving the docket for any appeal which may be filed by the petitioner, noting that in the event that the petitioner fails to file an appeal on or before February 15, 1996, the Board will dismiss the docket as unnecessary, and advising the petitioner that a \$75.00 filing fee will be required at such time as the petitioner files a petition, was adopted in #96-139, Village of Henderson v. IEPA, by a vote of 7-0. (CAM)

An Order requesting additional information, was adopted in #96-140, Nunda Water Utility Company, Inc. v. IEPA, by a vote of 7-0. (CAM)

An Order extending the 35-day appeal period, reserving the docket for any appeal which may be filed by the petitioner, noting that in the event that the petitioner fails to file an appeal on or before February 14, 1996, the Board will dismiss the docket as unnecessary, and advising the petitioner that a \$75.00 filing fee will be required at such time as the petitioner files a petition, was adopted in #96-141, Butterick Company v. IEPA, by a vote of 7-0. (CAM)

Mandatory hearings will be held in these cases: ##96-142, People of the State of Illinois v. A.E. Staley Manufacturing Company; 96-143, People of the State of Illinois v. Michel Grain Company, Inc., d/b/a Michel Fertilizer, and Carlyle Michel; 96-144, People of the State of Illinois v. Coastal Mart, Inc.; 96-145, People of the State of Illinois v. Schmidt Brothers Landscaping and Excavating, Inc..

An Order accepting the matter for hearing, was adopted in #96-146, Heritage Environmental Services, Inc. v. IEPA, by a vote of 7-0.

Mandatory hearings will be held in these cases: ##96-148, People of the State of Illinois v. U.S. Dismantlement Corporation; 96-149, People of the State of Illinois v. Wittridge Builders.

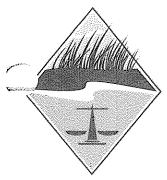
A provisional variance was granted in #96-150, Envirite Corporation v. IEPA, by a vote of 7-0. (CAM)

This case was discussed and held for further discussion or possible decision: #93-179, IBP, Inc. v. IEPA.

The Chairman's motion to establish a schedule of Closed Deliberative Sessions, pursuant to P.A. 88-621, for January 11, February 8, March 14, April 11, May 9 and June 13, was granted by a vote of 7-0.

It was moved and seconded to adjourn at 11:35 a.m..

All other matters not disposed of as listed were held.



# Illinois Pollution Control Board

James R. Thompson Center ◆ Suite 11-500 ◆ 100 West Randolph Street ◆ Chicago, Illinois 60601 312-814-3620 ◆ Fax 312-814-3669

REGULAR MEETING AGENDA JANUARY 4, 1996 CHICAGO, ILLINOIS CONFERENCE ROOM 9-041 10:30 A.M.

#### GOVERNOR Honorable Jim Edgar

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

#### **CHAIRMAN**

Claire A. Manning Springfield

#### **MEMBERS**

Emmett E. Dunham II Elmhurst

Ronald C. Flemal DeKalb

G. Tanner Girard Grafton

Marili McFawn Inverness

J. Theodore Meyer Chicago

> Joseph C. Yi Park Ridge

#### SPRINGFIELD OFFICE

600 South Second Street Suite 402 Springfield, Illinois 62704 217-524-8500 Fax 217-524-8508

#### SATELLITE OFFICES

110 South State
Jerseyville, Illinois 62052
618-498-9802
Fax 618-498-5934

148 North Third Street P.O. Box 505 DeKalb, Illinois 60115 815-753-1904 Fax 815-753-1970

#### **MOTIONS**

94-332

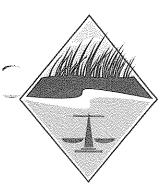
Western Lion Limited v. IEPA - Petitioner's Voluntary Withdrawal of Permit Appeal (1/2)(CAM)

# CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS

96-151 Keith F. Boyer v. Felecia Harris - Hold for

**Duplicitous/Frivolous Determination** 





## Illinois Pollution Control Board

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# AGENDA JANUARY 4, 1996 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 A.M.

#### GOVERNOR Honorable Jim Edgar

#### CHAIRMAN

Claire A. Manning Springfield

#### MEMBERS

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#### SATELLITE OFFICES

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148 North Third Street P.O. Box 505 DeKalb, Illinois 60115 815-753-1904 Fax 815-753-1970

#### **Announcements**

The Pollution Control Board welcomes the public to this open meeting. During the meeting itself, only the Board members or staff that are recognized by the Chairman are allowed to speak. If you have any questions about anything that occurred at the meeting, please feel free, after the meeting, to direct your questions to any one of the many staff members in attendance.

Appearance of an item on the agenda does not guarantee that the Board will take action on that item, since the Board may decide to hold the item over for additional review and action at a later meeting. Dates of future meetings of the Board appear on the last page of this agenda. Thank you for your interest.

#### Roll Call

#### **Minutes**

December 20, 1995

#### REGULATIONS AND ADJUSTED STANDARDS

R94-1 (A) & (B)

Triennial Water Quality Review: Amendments to 35 Ill. Adm. Code 302,202, 302,208, 302,212, 302,213, 302,407, 304,122 and 304,301 (Lead, Mercury and Ammonia Nitrogen) - Proposed Rule, Second First Notice, Opinion and Order (ED)(CAM)(RCF)





### REGULATIONS AND ADJUSTED STANDARDS (Cont'd)

AS 95-1	Petition of Tommy House Tire Company, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 848.202(b)(1)(2) and (b)(5) (McF)
AS 95-8) AS 96-5)	Petition of Illinois Department of Transportation, District 8 for an Adjusted Standard from 35 Ill. Adm. Code 304.124 - Agency Motion for Leave to File Instanter and Amended Response (12/20)(GTG)
AS 96-2	Petition of Western Lion Limited for an Adjusted Standard from 35 III. Adm. Code 814, Subpart C - Petitioner's Voluntary Withdrawal of Petition for an Adjusted Standard (12/29)(RCF)
AS 96-3	Petition of Cabot Corporation for an Adjusted Standard from 35 Ill.  Adm. Code Part 738, Subpart B - Petitioner's Motion for Expedited  Consideration and Withdrawal of Motion for Stay (12/5)(RCF)
AS 96-6	Petition of Amoco Oil Company for an Adjusted Standard from 35 Ill.  Adm. Code Subpart D - Hold for Certificate of Publication - No Order
DECISIONS	
96-120	People of the State of Illinois v. Dealers Ready Mix Company, d/b/a Frams Material Corporation - Stipulation
A YN'S AFRITACION	ATINE CITATIONS
ADMINISTR	ATIVE CITATIONS
AC 95-6	IEPA v. A-Reliable Auto Parts and Wreckers - Final Order (ED)
AC 96-20	IEPA v. James O. Weir - Respondent's Motion to Vacate December 20, 1995 Default Order (12/29)

### ADMINISTRATIVE CITATIONS (Cont'd)

AC 96-23	IEPA v. Paul Bunyon and Charles Groszek - Default Order
AC 96-24	County of Jackson v. Randy McBride - Default Order
AC 96-25	Will County v. RWS Development Corporation - Default Order
AC 96-32	County of Vermilion, Illinois v. Illinois Landfill, Inc Accept Case - No Order
MOTIONS	
92-99	A.B. Dick Company v. IEPA - Petitioner's Motion for Summary Judgment and Memorandum in Support of Motion for Summary Judgment (12/26)(CAM)
93-191	People of the State of Illinois v. Lloyd Weimann, d/b/a Weimann Ice and Fuel - Complainant's Motion for Summary Judgment and Memorandum in Support of Motion for Summary Judgment (10/6), Respondent's Motion for Leave to Join Additional Parties (10/30), Respondent's Response to Complainant's Motion for Summary Judgment and Respondent's Cross-Motion for Summary Judgment and Memorandum in Support of Response to Complainant's Motion for Summary Judgment and Respondent's Cross-Motion for Summary Judgment (12/18) (CAM)
94-157	Community Trust Bank v. IEPA - Joint Settlement Agreement and Motion to Dismiss (12/22)(GTG)

#### MOTIONS (Cont'd)

- Olive Streit and Lisa Streit v. Oberweis Dairy, Inc., Richard J. Fetzer and Johnnie W. Ward, d/b/a Serve-N-Save, and Richard J. Fetzer, individually, Amoco Oil Company, Mobil Oil Corporation Respondent Amoco Oil Company's Emergency Motion for Interlocutory Review of Hearing Officer's Ruling on its Request to Respondent Oberweis for Admission of Facts (12/22), Respondent Oberweis Dairy's Motion to Deny Amoco Oil's Emergency Motion for Interlocutory Review of Hearing officer's Ruling and Response to Amoco Oil's Emergency Motion for Interlocutory Review of Hearing officer's Ruling (12/29)(CAM)
- 95-162 Larry Slates, Lonnie Seymour, James Klaber, Faye Mott, and
  Hoopeston Community Memorial Hospital v. Illinois Landfills, Inc. and
  Hoopeston City Council on behalf of the City of Hoopeston Petitioners' Withdrawal of Objection to Variance Issue (12/18)(GTG)
- People of the State of Illinois v. Environmental Control and Abatement, Inc. Respondent's Motion to Enter Appearance and Respondent's Motion to Dismiss (10/17), Complainant's Motion for Leave to File Instanter Motion for Leave to File Amended Complaint, Complainant's Response to Respondent's Motion to Dismiss and Memorandum in Support of Motion to Dismiss (11/8), Respondent's Motion to File Limited Reply to Complainant's Response to Respondent's Motion to Dismiss and Memorandum (11/28), Complainant's Response to Respondent's Limited Reply, Complainant's Memorandum in Support of Complainant's Response to Respondent's Reply and Motion for Leave to File Instanter (12/27)(JY)
- 96-52 Raleigh Realty Corporation v. IEPA Petitioner's Motion to Reconsider Order Dismissing Appeal and Reconcile Docket Numbers and Identity of Petitioner (12/22)(CAM)

#### MOTIONS (Cont'd)

People of the State of Illinois v. Chemetco, Inc. - Respondent's Motion to Dismiss (10/20), Complainant's Response to Respondent's Motion to Dismiss (10/27), Respondent's Request for an Extension of Time to File an Answer if the Motion to Dismiss is Denied (11/7), Respondent's Request for Oral Argument (11/7), Respondent's Reply Memorandum in Support of Respondent's Motion to Dismiss (11/15), Complainant's Motion to Strike Respondent's Reply Memorandum (11/21), Respondent 's Memorandum of Law in Support of Respondent's Motion to Dismiss (12/29)(CAM)

96-85 The County of Kane, Illinois and Waste Management of Illinois, Inc v. IEPA - Agency Record and Agency Motion to File Record Instanter (11/20), Petitioners' Motion for Summary Judgment and Memorandum of Law in Support of Petitioners' Motion for Summary Judgment (12/1), Agency Motion for Summary Judgment (12/4), Agency Response to Petitioners' Motion for Summary Judgment (12/8), The City of Geneva's Motion for Review of Hearing Officer's Ruling and Response to Motions for Summary Judgment (12/8), Petitioners' Response to Agency's Motion for Summary Judgment and Memorandum of Law in Support of Petitioners' Response to Agency's Motion for Summary Judgment (12/11), Petitioners' Response to City of Geneva's Motion for Review of Hearing Officer's Ruling (12/20), Petitioners' Motion for Leave Instanter to File Reply to City of Geneva's Amicus Curie Response and Petitioners' Reply to City of Geneva's Amicus Curie Response (12/20), City of Geneva's Motions and Responses Regarding Various Procedural Matters (12/21)(CAM)

AlliedSignal, Inc. v. IEPA - Agency Motion to Dismiss (11/16),
Petitioner's Objection and Reply to Agency Motion to Dismiss (11/21),
Agency Motion for Leave to File Reply and Reply to AlliedSignal,
Inc.'s Objection and Reply to the Agency's Motion to Dismiss (12/6),
Petitioner's Motion for Leave to File Reply and Reply (12/12)(McF)

96-102 <u>Kathe's Auto Service Center v. IEPA</u> - Agency Motion to File Record Instanter (12/18)(JY)

### MOTIONS (Cont'd) People of the State of Illinois v. ESG Watts, Inc. - Respondent's 96-107 Motion to Dismiss (12/1), Complainant's Response to Respondent's Motion to Dismiss (12/11)(ED) Allied Tube & Conduit Corporation v. IEPA - Petitioner's Motion for 96-108 Stay (See end of paragraph 1, page 1 of the Petition filed 11/16)(McF) Incobrasa Industries, Inc. v. IEPA - Agency Motion to Extend Time to 96-123 File Agency Record (12/19)(McF) People of the State of Illinois v. Illinois Cement Company - Agreed 96-147 Motion to Request Relief from Hearing Requirement (12/29) CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS The OK Trucking Company v. IEPA - Petitioner's Status Report in 92-108 Response to September 21, 1995 Board Order (12/26)(ED) BFI Modern Landfill #1 and #2 v. IEPA - Accept for Hearing Order 96-86 (CAM) Dwight #17 v. IEPA - Dismissal Order (CAM) 96-87 96-89 Gilbert & Bennett Manufacturing Company (Blue Island Facility) v. IEPA - Dismissal Order (CAM)

# CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS (Cont'd)

96-92	Amoco Oil Company (Elmhurst Facility) v. IEPA - Accept for Hearing Order (CAM)
96-96	General Electric Control Products v. IEPA - Dismissal Order (CAM)
96-117	LaSalle National Trust, N.A., as Trustee under Trust No. 34565 v. Standard Bank and Trust Company, as Trustee under Trust No. 14929, and Capitol Bank and Trust, as Trustee under Trust No. 2421 - Duplicitous/Frivolous Determination (See Respondent Capitol Bank and Trust' Motion to Dismiss filed 12/28) (GTG)
96-134	Schilling Petroleum Company v. IEPA - Joint 90-Day Extension Request (CAM)
96-135	Schilling Petroleum Company v. IEPA - Joint 90-Day Extension Request (CAM)
96-136	People of the State of Illinois v. Steve Kulovsek, d/b/a WSH Management Group, and d/b/a Kulovsek Excavating - Hearing Mandatory - No Order
96-137	People of the State of Illinois v. Kimball Hill, Inc Hearing Mandatory - No Order
96-138	Stepan Company v. IEPA - Accept for Hearing Order (See Petitioner's Limited Waiver of Hearing and Decision Dates and Date for Filing the Agency Record filed 12/22)

# CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS (Cont'd)

96-139	<u>Village of Henderson v. IEPA</u> - Joint 90-Day Extension Request (CAM)
96-140	Nunda Water Utility Company, Inc. v. IEPA - Board Order
96-141	Chicago/Butterick Company, Inc. v. IEPA - Petitioner's Request for 90-Day Extension (See Joint 90-Day Extension Request filed 12/27)(CAM)
96-142	People of the State of Illinois v. A.E. Staley Manufacturing Company - Hearing Mandatory - No Order
96-143	People of the State of Illinois v. Michel Grain Company, Inc., d/b/a Michel Fertilizer, and Carlyle Michel - Hearing Mandatory - No Order
96-144	People of the State of Illinois v. Coastal Mart, Inc Hearing Mandatory - No Order
96-145	People of the State of Illinois v. Schmidt Brothers Landscaping & Excavating, Inc Hearing Mandatory - No Order
96-146	Heritage Environmental Services, Inc. v. IEPA - Accept for Hearing Order
96-148	People of the State of Illinois v. U.S. Dismantlement Corporation - Hearing Mandatory - No Order

# CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS (Cont'd)

96-149	People of the State of Illinois v. Wittridge Builders - Hearing Mandatory - No Order
96-150	Envirite Corporation v. IEPA - Provisional Variance (CAM)

#### **CASES PENDING DECISION**

93-179 <u>IBP, Inc. v. IEPA</u> (GTG)(open waiver)

Chairman's Motion to establish a schedule of Closed Deliberative Sessions, pursuant to P.A. 88-621, for: January 11, February 8, March 14, April 11, May 9 and June 13

**ADJOURNMENT** 

### LIST OF NEW CASES FILED SINCE DECEMBER 20, 1995 BOARD MEETING

AC 96-32	County of Vermilion, Illinois v. Illinois Landfill, Inc.
96-134	Schilling Petroleum Company v. IEPA
96-135	Schilling Petroleum Company v. IEPA
96-136	People of the State of Illinois v. Steve Kulovsek, d/b/a WSH Management Group, and d/b/a Kulovsek Excavating
96-137	People of the State of Illinois v. Kimball Hill, Inc.
96-138	Stepan Company v. IEPA
96-139	Village of Henderson v. IEPA
96-140	Nunda Water Utility Company, Inc. v. IEPA
96-141	Chicago/Butterick Company, Inc. v. IEPA
96-142	People of the State of Illinois v. A.E. Staley Manufacturing Company
96-143	People of the State of Illinois v. Michel Grain Company, Inc., d/b/a Michel Fertilizer, and Carlyle Michel
96-144	People of the State of Illinois v. Coastal Mart, Inc.
96-145	People of the State of Illinois v. Schmidt Brothers Landscaping & Excavating, Inc.
96-146	Heritage Environmental Services, Inc. v. IEPA
96-147	People of the State of Illinois v. Illinois Cement Company
96-148	People of the State of Illinois v. U.S. Dismantlement Corporation
96-149	People of the State of Illinois v. Wittridge Builders
96-150	Envirite Corporation v. IEPA

### REGULAR BOARD MEETING SCHEDULE FOR THE REMAINDER OF FY 96

January 4
January 18

February 1
February 15

May 2
May 16

March 7

June 6

March 21

NOTE: All Board Meetings for the remainder of FY 96 will be held in Conference Room 9-040

June 20