

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING FEBRUARY 15, 1996 CHICAGO, ILLINOIS

After calling the meeting to order by teleconference, Chairman Manning welcomed members of the public and staff to the meeting. Thereafter, the Clerk was asked for a roll call and Chairman C. Manning and Board Member G. Tanner Girard answered present from the Springfield office, and Board Members E. Dunham, R.C. Flemal, Marili McFawn, J. Theodore Meyer and J. Yi, answered present from the Chicago office.

Board Member Marili McFawn's motion to amend, seconded by E. Dunham carried, and the February 1, 1996 Minutes were approved as amended by a vote of 7-0.

In R96-6, Exemptions from Definitions of VOM, USEPA Amendments (July 1, 1995 through December 31, 1995), a Proposed Rule, Dismissal Order, was adopted by a vote of 7-0. (GTG)

In R96-8, UIC Update, USEPA Regulations (July 1, 1995 through December 31, 1995), a Proposed Rule, Dismissal Order, was adopted by a vote of 7-0. (ED)

In R96-11, UST Update, USEPA Regulations (July 1, 1995 through December 31, 1995), a Proposed Rule, Dismissal Order, was adopted by a vote of 7-0. (McF)

An Order requesting additional information, was adopted in #AS 96-7, Petition of the City of Belleville, Illinois for an Adjusted Standard from 35 Ill. Adm. Code 106.705, by a vote of 7-0. (ED)

An Opinion and Order accepting the Stipulation and Proposal for Settlement in the amount of \$10,500.00, was adopted in #95-124, People of the State of Illinois v. Lebanon Chemical Corporation, by a vote of 7-0. (GTG)

An Opinion and Order was adopted in #96-60, Concerned Citizens of Williamson County and Rev. Paul Crain and Rose Rowell, as members of the Concerned Citizens of Williamson County v. Bill Kibler Development Corporation, a/k/a Kibler Development Corporation and the Williamson County Board of Commissioners, by a vote of 7-0. Messrs. E. Dunham and J. Yi concurred. (GTG)

An Opinion and Order accepting the Stipulation and Proposal for Settlement in the amount of \$20,000.00, was adopted in #96-153, People of the State of Illinois v. MP Melrose Park Associates, Ltd., by a vote of 7-0.

A Default Order was adopted in this Administrative Citation by a vote of 7-0: #96-32, County of Vermilion v. Illinois Landfill, Inc..

This Administrative Citation was accepted by the Board: #96-37, IEPA v. Midwest Excavating.

An Order granting the petitioner's motion to reconsider and modify, vacating the December 20, 1995 Opinion and Order, and setting the matter for hearing, was adopted in #86-2, Petition of the City of LaSalle for a CSO Exception, by a vote of 6-1. J. Theodore Meyer dissented. **(GTG)**

An Order denying the petitioner's motion to exclude the respondent's brief, granting the respondent's motion to file its post-hearing brief instanter, granting the petitioner additional time until February 23, 1996 to file its reply brief, awarding the petitioner reasonable costs that were incurred in the preparation of its motion to exclude, the motion for sanctions, and the response to the motion to file instanter, and directing the petitioner to file these costs at the same time its reply brief is due, was adopted in ##94-243, -306, -307, -308, -309, -95-133, -134, ESG Watts, Inc. v. IEPA, by a vote of 5-2. Messrs. J. Theodore Meyer and J. Yi dissented. **(GTG)**

An Order granting the petitioner's motion to dismiss, was adopted in #95-54, The City of Metropolis v. IEPA, by a vote of 7-0. **(JY)**

An Order denying the petitioner's appeal from the hearing officer's decision granting the Agency's request for a protective order denying the petitioner the opportunity to depose Director Mary Gade and Deputy Director Bernard Killian, was adopted in ##95-119, -125, West Suburban Recycling and Energy Center, L.P. v. IEPA, by a vote of 7-0. **(RCF)**

An Order granting the Agency's motion to file the record instanter, was adopted in #95-168, Brunetto Brothers Mobil v. IEPA, by a vote of 7-0. **(JY)**

An Order granting the petitioner's motion for stay of the proceedings until April 15, 1996, was adopted in #95-182, Carl and Edna Ball, d/b/a C & E Recycling and Resource Recovery, by a vote of 7-0. **(GTG)**

An Order granting the Agency's motion to file the record instanter, was adopted in #96-52, Raleigh Realty Corporation v. IEPA, by a vote of 7-0. **(JTM)**

An Agency motion to postpone filing the answer and record in #96-95, AlliedSignal, Inc. v. IEPA, was referred to the hearing officer for disposition.

An Agency motion to postpone filing the answer and record in #96-112, City of Chester v. IEPA, was referred to the hearing officer for disposition.

An Order denying respondent Capitol Bank and Trust's motion for leave to file a response to the complainant's response to its reply in support of its motion to dismiss, was adopted in #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, by a vote of 7-0. **(GTG)**

An Order granting the Agency's request for time until April 15, 1996 to file the administrative record, was adopted in #96-146, Heritage Environmental Services, Inc. v. IEPA, by a vote of 7-0. **(GTG)**

A joint status report in response to an August 24, 1995 Board Order in #91-162, Minnesota Mining and Manufacturing Company v. IEPA, was referred to the hearing officer for disposition.

An Order accepting the petitioner's status report filed in response to a December 20, 1995 Board Order, granting the petitioner's motion for stay, and directing the assigned hearing officer to order status reports as deemed necessary, was adopted in #92-102, Moline/Dutchway Dry Cleaners v. IEPA, by a vote of 7-0. **(JTM)**

An Order setting the matter for hearing due to several letters that were received by the Board objecting to the grant of the petitioner's variance, was adopted in #96-154, Village of Oswego v. IEPA, by a vote of 7-0. **(McF)**

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 31, 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 #96-163, Land and Lakes/Wheeling #5 v. IEPA, by a vote of 7-0. **(CAM)**

A mandatory hearing will be set in #96-170, People of the State of Illinois v. Robinette Demolition, Inc..

An Order accepting the matter for hearing, was adopted in #96-171, Exel Sales, Inc. 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 April 10, 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 #96-172, Envotech-Illinois, Inc. v. IEPA, by a vote of 7-0. **(CAM)**

This case was held for an Agency Recommendation: #96-174, The Knapheide Manufacturing Company v. IEPA.

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 April 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 #96-175, Caterpillar, Inc. v. IEPA, by a vote of 7-0. **(CAM)**

ADDENDUM

This Administrative Citation was accepted by the Board: #96-38, IEPA v. Joseph C. Smith and Laverne A. Smith.

An Order granting the Agency's motions for an extension of time until May 16, 1996 to file the Agency's records, was adopted in ##96-155, -156, West Suburban Recycling and Energy Center, L.P. v. IEPA, by a vote of 7-0. (RCF)

An Agency motion for an extension of time to file the administrative record in #96-164, CGE Ford Heights, L.L.C. v. IEPA, was referred to the hearing officer for disposition.

An Order accepting the matter for hearing, was adopted in #96-176, Steve's Mobil Service v. IEPA, by a vote of 7-0.

An Order accepting the matter for hearing, was adopted in #96-177, Royer Oil Company, Inc. v. IEPA, by a vote of 7-0.

An Order accepting the matter for hearing, was adopted in #96-178, Alexander/Franklin Community Unit School District #1 V. IEPA, by a vote of 7-0.

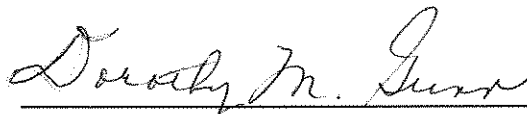
AGENDA

These cases were discussed and held for further discussion or possible decision: R96-5, Visible and Particulate Matter Emissions, Proposed Rule, Second Notice, Opinion and Order; AC 96-3, Petition of the Cabot Corporation for an Adjusted Standard from 35 Ill. Adm. Code 738.Subpart B; 94-243, -306, -307, -308, -309, -95-133, -134, ESG Watts, Inc. v. IEPA; 96-79, -82, Those Opposed to Area Landfills (T.O.T.A.L.), a concerned Citizens' Group v. City of Salem and Concerned Adjoining Owners, a Concerned Citizens's Group v. City of Salem; 96-161, City of Geneva v. IEPA.

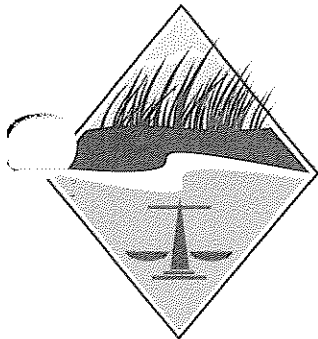
All other matters not disposed of as listed were held.

Moved and seconded, with a vote of 7-0, the meeting was adjourned at 11:15 a.m..

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 7th day of March, 1996, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board



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

GOVERNOR
Honorable Jim Edgar

REGULAR MEETING AGENDA FEBRUARY 15, 1996 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 A.M.

CHAIRMAN
Claire A. Manning
Springfield

ADDENDUM

REGULATIONS AND ADJUSTED STANDARDS

MEMBERS
Emmett E. Dunham II
Elmhurst

AS 96-7 Petition of the City of Belleville, Illinois for an (ED)
Adjusted Standard from Ill. Adm. Code
306.305(b) - Petitioner's Notice of Publication
(2/14)

Ronald C. Flemal
DeKalb

G. Tanner Girard
Grafton

Marilyn McFawn
Inverness

J. Theodore Meyer
Chicago

Joseph C. Yi
Park Ridge

ADMINISTRATIVE CITATIONS

AC 96-38 IEPA v. Joseph C. Smith and Laverne A. Smith

MOTIONS

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

94-243) ESG Watts, Inc. v. IEPA - Petitioner's Response (GTG)
94-306) to Respondent's Motion Motion for Leave to
File Post-Hearing Brief Instantly (2/13),
94-307) Petitioner's Motion for Additional Sanctions
(2/13)

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

94-308)

94-309)

95-133)

95-134)

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



MOTIONS (Cont'd)

95-119) West Suburban Recycling and Energy Center, L.P. v. IEPA - Petitioner's Appeal from the Hearing Officer's February 6, 1996 Order Granting the Agency's Request for a Protective Order to Deny Petitioner the Opportunity to Depose Deputy Director Bernard Killian (2/13), Agency's Objection to Petitioner's Appeal from the Hearing Officer's Decision Granting the Agency's Request for a Protective Order to Deny Petitioner the Opportunity to Depose Mary A. Gade (2/13) (RCF)

96-155) West Suburban Recycling and Energy Center, L.P. v. IEPA - Agency's Second Motion for extension of Time to File the Administrative Record (2/14) (RCF)

96-164 CGE Ford Heights, L.L.C. v. IEPA - Agency Motion for Extension of Time to File Administrative Record (2/7) (CAM)

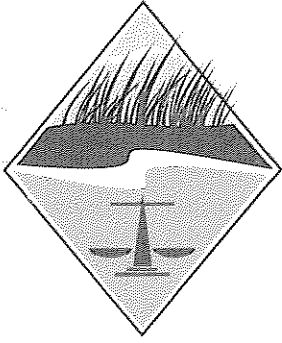
CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS

96-176 Steve's Mobil Service v. IEPA - Accept for Hearing Order

96-177 Royer Oil Company, Inc. v. IEPA - Accept for Hearing Order

96-178 Alexander/Franklin Community Unit School District #1 v. IEPA - Accept for Hearing Order

96-179 Gilbert and Lenda Marshall v. Danny Ligenfelter, individually and as President of Central Illinois Dirt Riders Association - Hold for Duplicitous/Frivolous Determination



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GOVERNOR

Honorable Jim Edgar



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DeKalb

G. Tanner Girard
Grafton

Marili McFawn
Inverness

J. Theodore Meyer
Chicago

Joseph C. Yi
Park Ridge



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Fax 815-753-1970

AGENDA

FEBRUARY 15, 1996 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

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

February 1, 1996



REGULATIONS AND ADJUSTED STANDARDS

R96-6 Exemptions from Definitions of VOM, USEPA Amendments (July 1, 1995 through December 31, 1995) - Proposed Rule, Dismissal Order (GTG)

R96-8 UIC Update, USEPA Regulations (July 1, 1995 through December 31, 1995) - Proposed Rule, Dismissal Order (ED)

R96-11 UST Update, USEPA Regulations (July 1, 1995 through December 31, 1995) - Proposed Rule, Dismissal Order (McF)

AS 96-7 Petition of the City of Belleville, Illinois for an Adjusted Standard From 35 Ill. Adm. Code 106.705 - Hold for Certificate of Publication (ED)

AS 96-8 Petition of Central Illinois Light Company (Duck Creek Station) for an Adjusted Standard from 35 Ill. Adm. Code 302.208 and 35 Ill. Adm. Code 304.105 - Hold for Certificate of Publication

DECISIONS

95-124 People of the State of Illinois v. Lebanon Chemical Corporation - Stipulation (GTG)

96-60 Concerned Citizens of Williamson, et al. v. Bill Kibler Development Corp., a/k/a Kibler Development Corp., and the Williamson Board of Commissioners (due) (GTG)

96-153 People of the State of Illinois v. MP Melrose Park Associates, Ltd. - Stipulation

ADMINISTRATIVE CITATIONS

AC 96-32 County of Vermilion v. Illinois Landfill, Inc. - Default Order

AC 96-37 IEPA v. Midwest Excavating - Accept Case - No Order

MOTIONS

86-2 Petition of the City of LaSalle for CSO Exception - Petitioner's Motion for Reconsideration (1/23), Agency's Response to Petitioner's Motion for Reconsideration (2/2) (GTG)

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), Petitioner's Emergency Motion to Defer Consideration of Pending Motion for Summary Judgment (1/17) (CAM)

94-243) ESG Watts, Inc. v. IEPA - Petitioner's Motion to Exclude Respondent's Brief (2/2), Agency Response to Petitioner's Motion to Exclude Respondent's Brief and Motion for Leave to File Instanter Respondent's Post-Hearing Brief (2/7) (GTG)

94-306)

94-307)

94-308)

94-309)

95-133)

95-134)

95-54 The City of Metropolis v. IEPA - Petitioner's Motion to Dismiss (2/9) (JY)

95-119) West Suburban Recycling and Energy Center, L.P. v. IEPA - (RCF)
95-125) Motion for Leave to File Reply and Reply to WSREC's
Objection to IEPA's Emergency Motion to Reconsider Ruling on
Agency's Motion to Quash Notice to Appear at Deposition and
Emergency Motion to Stay Pending Order on This Motion (2/2),
Petitioner's Appeal From the Hearing Officer's Decision
Granting the Agency's Request for a Protective Order Denying
WSREC the Opportunity to Depose Mary Gade (2/6)

95-168 Brunetto Brothers Mobil v. IEPA - Agency Record and Agency (JY)
Motion to File Record Instanter (1/30)

95-182 Carl and Edna Ball, d/b/a C & E Recycling and Resource (GTG)
Recovery - Petitioners' Motion for Extension of Time and Stay
of Proceedings (2/9)

96-52 Raleigh Realty Corporation v. IEPA - Agency Motion to File (JTM)
Record Instanter (2/3)

96-76 People of the State of Illinois v. Chemetco, Inc. - Respondent's (CAM)
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), Complainant's Response to
Respondent's Memorandum of Law (1/17), Respondent's Reply
to Complainant's Response to Respondent's Memorandum of
law (1/24), Complainant's Motion to Strike Respondent's Reply
to Complainant's Response to Respondent's Memorandum of
Law (1/31)

96-88 Kean Oil Company v. IEPA - Petitioner's Motion for (CAM)
Reconsideration (1/19)

MOTIONS (Cont'd)

96-95 AlliedSignal, Inc. v. IEPA - Agency Motion to Postpone Filing the Answer and Record (2/7) (McF)

96-112 City of Chester v. IEPA - Agency Motion to Postpone Filing the Answer and Record (2/5) (McF)

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 - Motion for Leave to File Response to Complainant's Response to Reply in Support of Motion to Dismiss (2/1) (GTG)

96-143 People of the State of Illinois v. Michel Grain Company, Inc., d/b/a Michel Fertilizer, and Caryle Michel - Respondents' Motion for Leave to File Instant Motion to Dismiss Complainant's Complaint and Memorandum in Support of Motion to Dismiss (2/6) (CAM)

96-146 Heritage Environmental Services, Inc. v. IEPA - Agency's Request for Time to File the Administrative Record (2/7) (GTG)

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

91-162 Minnesota Mining and Manufacturing Company v. IEPA - Joint Status Report in Response to August 24, 1995 Board Order (2/1) (McF)

92-102 Moline/Dutchway Dry Cleaners v. IEPA - Petitioner's Status Report in Response to December 20, 1995 Board Order and Request for Stay Pending Outcome of Disputed Issue in Illinois Supreme Court Appeal (2/9) (JTM)

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

96-154 Village of Oswego v. IEPA - (See 3 Objections filed January 29, 1996; Letter of Objection submitted by David G. and Donna Scheele filed 2/2; Letter from Stephen C. Ewart with copies of letters of Objection from Elizabeth Summers, Lawrence F. Rybicki, Mark and Susan Hauser, and Bonnie A. Finnow filed 2/2) (McF)

96-163 Land and Lakes/Wheeling v. IEPA - 90-Day Extension Request Order (CAM)

96-170 People of the State of Illinois v. Robinette Demolition, Inc. Hearing Mandatory (GTG)

96-171 Exel Sales, Inc. v. IEPA - Accept for Hearing Order (ED)

96-172 Envotech - Illinois, Inc. v. IEPA - 90-Day Extension Request Order (CAM)

96-173 Coal City Citgo v. IEPA - 90 Day Extension Request - Hold for Agency Response

96-174 The Knapheide Mfg. Co., v. IEPA - Additional Information Order

96-175 Caterpillar, Inc. v. IEPA - 90-Day Extension Request Order (CAM)

CASES PENDING DECISION

R96-5 Visible and Particulate Matter Emissions - Proposed Rule, Second Notice, Opinion and Order (GTG)

CASES PENDING DECISION (Cont'd)

AS 96-3 Petition of Cabot Corporation for an Adjusted Standard from 35 (RCF)
Ill. Adm. Code 738.Subpart B

94-243) ESG Watts, Inc. v. IEPA (due 3/7) (GTG)

94-306)

94-307)

94-308)

94-309)

95-133)

95-134)

96-79) Those Opposed to Area Landfills (T.O.T.A.L.), a Concerned (JY)
96-82) Citizens' Group v. City of Salem and Concerned Adjoining
Owners, a Concerned Citizen's Group v. City of Salem (due 3/7)

96-161 City of Geneva v. IEPA (due 5/16) (RCF)

ADJOURNMENT

LIST OF NEW CASES FILED SINCE FEBRUARY 1, 1996 BOARD MEETING

AC 96-37 IEPA v. Midwest Excavating

96-170 People of the State of Illinois v. Robinette Demolition, Inc.

96-171 Exel Sales, Inc. v. IEPA

96-172 Envotech - Illinois, Inc. v. IEPA

96-173 Coal City Citgo v. IEPA

96-174 The Knapheide Mfg. Co., v. IEPA

96-175 Caterpillar, Inc. v. IEPA

REGULAR BOARD MEETING SCHEDULE FOR THE REMAINDER OF FY 96

March 7
March 21

April 4
April 18

May 2
May 16

June 6
June 20

NOTE: All Board Meetings will be held in Conference Room 9-040