

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING APRIL 4, 1996 CHICAGO, ILLINOIS - 10:30 A.M.

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 March 21, 1996 Board Meeting were approved by a vote of 7-0.

In R92-8, Proposed Amendments to 35 Ill. Adm. Code Subtitle C (Water Toxics and Bioaccumulation), an Opinion and Order was adopted by a vote of 7-0. **(RCF)**

In R94-30, Petition of Commonwealth Edison Company for Site-Specific Regulation for existing Landfills and Units: 35 Ill. Adm. Code 811 - 814, Petitioner's motion to withdraw the site-specific rulemaking petition, was granted by a vote of 7-0. **(McF)**

An Opinion and Order 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 Opinion and Order accepting the Stipulation and Proposal for Settlement in the amount of \$5,000.00, was adopted in #95-135, People of the State of Illinois v. Yesley Service Company, Inc., by a vote of 7-0. **(RCF)**

An Order accepting the joint stipulation of settlement agreement proposed by the parties, assessing the respondent a statutory penalty of \$500.00 for violating Section 21(p)(1) of the Act, and unless already paid, directing the respondent to pay the \$500.00 penalty by April 28, 1997, was adopted in #AC 94-24, IEPA v. Frank Blair, by a vote of 7-0. **(McF)**

An Order granting the respondent's motion to withdraw his petition for review, finding the respondent has violated the provision alleged in the administrative citation, and unless already paid, directing the respondent to pay within 30 days of the order, a penalty in the amount of \$500.00, was adopted in #AC 96-2, IEPA v. William E. Hanna, by a vote of 7-0. **(JY)**

A Default Order assessing the respondent a \$1,000.00 penalty for violating Sections 21(p)(1) and 21(p)(3) of the Environmental Protection Act, was adopted in #AC 96-35, County of LaSalle v. CSX Transportation, by a vote of 7-0.

An Order directing the Clerk to cause publication of the required newspaper notice of the parties motion for relief from the hearing requirement, was adopted in #93-250, People of the State of Illinois v. Clark Oil & Refining, by a vote of 7-0. **(ED)**

An Order granting the complainant's motions to extend the time to file her post-hearing brief, accepting the brief as timely filed, and noting that the respondent's brief is now due May 16, 1996 and complainant's rebuttal brief is due May 30, 1996, was adopted in #94-146, Dorothy L. Hoffman v. City of Columbia, by a vote of 7-0. **(JY)**

An Order granting the petitioner's motion to stay proceedings until June 3, 1996, and directing the parties to file a status report in the matter on or before June 3, 1996, was adopted in #95-100, C&S Recycling, Inc. v. IEPA, by a vote of 7-0. **(ED)**

An Order granting the petitioner's motion to voluntarily dismiss its petition for review and closing the docket, was adopted in #96-59, Earle Aronson (Don's Gas For Less) v. Office of the State Fire Marshal, by a vote of 7-0. **(GTG)**

An Order directing the Clerk of the Board to cause publication of the required newspaper notice of the parties motion to request relief from the hearing requirement, was adopted in #96-149, People of the State of Illinois v. Wittridge Builders, Inc., by a vote of 7-0. **(JTM)**

An Order granting the Agency's motion for an extension of time until May 1, 1996 to file its recommendation, and granting the petitioner's request to incorporate by reference the record in PCB 94-297, was adopted in #96-184, J.M. Sweeney Company v. IEPA, by a vote of 7-0. **(JTM)**

By a vote of 7-0, the Board, on its own motion, vacated its March 21, 1996 order which inadvertently accepted the matter for hearing in #96-198, Land and Lakes Company v. IEPA. The case will be held for the Agency's recommendation. **(JY)**

An Order advising the petitioner that absent an additional waiver of the decision deadline, the Board must decide the matter, based on the record, at its August 15, 1996 meeting, and directing the parties to file status reports or a joint status report with the Board on or before July 12, 1996, was adopted in #91-202, Sherex Chemical Company, Inc. v. IEPA, by a vote of 7-0. **(ED)**

An Order dismissing the docket as unnecessary, was adopted in #96-134, Schilling Petroleum Company (Hi Horse Mobil) v. IEPA, by a vote of 7-0. **(CAM)**

An Order granting the petitioner's motion to incorporate documents by reference instant, granting the Agency's motion to file its response to petitioner's motion to incorporate documents by reference instant and accepting the Agency's response to the petitioner's motion, granting the Agency's motion for an extension time until May 3, 1996 in which to file its recommendation, and accepting the matter for hearing, was adopted in #96-191, White Cap, Inc. v. IEPA, by a vote of 7-0. **(JTM)**

An Order requesting additional information, was adopted in #96-195, City of Prospect Heights (Rob Roy Water System) v. IEPA, by a vote of 7-0. **(RCF)**

Mandatory hearings will be held in these cases: ##96-200, People of the State of Illinois v. Pelmore Construction, Inc., and Eddie L. Pelmore, individually and as President of Pelmore Construction, Inc.; 96-201, People of the State of Illinois v. Coalville Road Enterprises, Inc., f/k/a Streator Area Landfill, Inc.; 96-202, People of the State of Illinois v. Donald and Robert Hastie, d/b/a Hastie Trucking and Mining Company.

An Order granting the complainant's request to withdraw the pleadings and to allow the Board to close the docket, was adopted in #96-203, People of the State of Illinois v. L. Keller Oil Properties, Inc., and Charles F. Keller, by a vote of 7-0. **(JY)**

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 May 27, 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 #96-204, Downtown Oil 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 May 23, 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 #96-205, Daily Southtown, Inc. v. IEPA, by a vote of 7-0. **(CAM)**

Mandatory hearings will be held in these cases: ##96-207, People of the State of Illinois v. Piece Work Specialists, Inc.; 96-208, People of the State of Illinois v. Frank Merkendorfer, Belden Tools, Inc., and Phil Pinello; 96-209, People of the State of Illinois v. Macon County Landfill Corporation.

These cases were discussed and held for further discussion or possible decision: ##AS 96-1, Petition of Illinois Power Company (Baldwin Power Plant) for an Adjusted Standard from 35 Ill. Adm. Code 302.208 and 35 Ill. Adm. Code 304.105 Regarding the Parameter Boron; 96-22, Mr. Lew D'Souza and Mrs. Patricia D'Souza v. Mr. Richard Marraccini and Mrs. Joanne Marraccini.

ADDENDUM

These Administrative Citations were accepted by the Board: ##96-42, IEPA v. John Sharp, d/b/a John's Auto Salvage; 96-43, IEPA v. Envirofil of Illinois, Inc..

An Order granting the petitioner's voluntary motion to dismiss and closing the docket, was adopted in #92-99, A.B. Dick Company, Inc. v. IEPA, by a vote of 7-0. **(CAM)**

An Order denying the complainants' motion to set hearing for May 21 - 23, 1996, was adopted in #96-53, David and Susi Shelton v. Steven and Nancy Crown, by a vote of 7-0. **(GTG)**

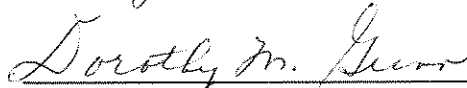
An Order accepting the matter for hearing, was adopted in #96-175, Caterpillar, Inc. v. IEPA, by a vote of 7-0. (CAM)

A provisional variance was granted in #96-210, Richardson Electronics, Ltd. v. IEPA, by a vote of 7-0. (CAM)

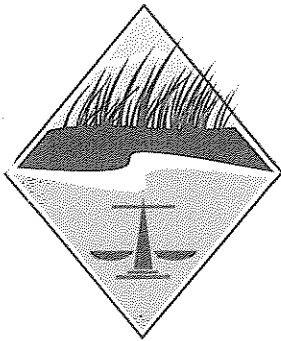
All other matters not disposed of as listed were held.

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 18th day of April, 1996, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board



ILLINOIS POLLUTION CONTROL BOARD

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Honorable Jim Edgar



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REGULAR MEETING AGENDA APRIL 4, 1996 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 P.M.

AMENDED ADDENDUM

ADMINISTRATIVE CITATIONS

AC 96-42 IEPA v. John Sharp, d/b/a John's Auto Salvage -
Accept Case - No Order

AC 96-43 IEPA v. Envirofil of Illinois, Inc. - Accept Case -
No Order

MOTIONS

92-99 A.B. Dick Company v. IEPA- Petitioner's (CAM)
Motion for Leave to Withdraw Appeal (4/2)

96-53 David and Susi Shelton v. Steven and Nancy (GTG)
Crown - Complainants' Motion to Set Hearing
for May 21 - 23, 1996 (4/1), Respondents'
Motion to Dismiss the Proceeding,
Memorandum in Support of Motion to Dismiss,
and Response to the Complainants' Motion to
Set Hearings for May 21 - 23, 1996 (4/2)

MOTIONS (Cont'd)

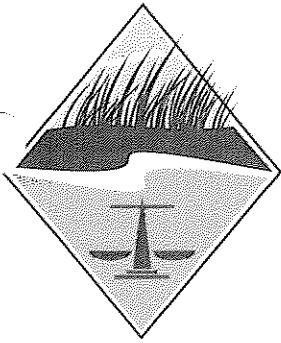
96-184 J.M. Sweeney Company v. IEPA - Petitioner's Response to Motion for Extension of Time in Which to File Recommendation and etitioner's Motion for Inclusions of Record, Opinion and Order (4/2) (JTM)

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

96-175 Caterpillar, Inc. v. IEPA - Accept for Hearing Order (CAM)

96-186 Mr. & Mrs. Don Williams, Mr. & Mrs. Thomas Morris, and Mr. & Mrs. Peter Bizios v. Schaumburg Park District - Respondent's Motion to Extend Time to Answer and to Delay the Setting of a Hearing (4/3) (ED)

96-210 Richardson Electronics, Ltd. v. IEPA - Provisional Variance (CAM)



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GOVERNOR
Honorable Jim Edgar



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Springfield

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AGENDA APRIL 4, 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

March 21, 1996

REGULATIONS AND ADJUSTED STANDARDS

R92-8	<u>Proposed Amendments to 35 Ill. Adm. Code Subtitle C (Water Toxics and Bioaccumulation) - Opinion and Order</u>	(RCF)
R94-30	<u>Petition of Commonwealth Edison Company for Site-Specific Regulation for Existing Landfills and Units: 35 Ill. Adm. Code 811-814 - Petitioner's Motion to Withdraw the Site-Specific Rulemaking Petition (4/1)</u>	(McF)
AS 96-5	<u>Petition of the Illinois Department of Transportation, District 8 for an Adjusted Standard from 35 Ill. Adm. Code 304.124</u>	(GTG)
AS 96-7	<u>Petition of the City of Belleville, Illinois for an Adjusted Standard from 35 Ill. Adm. Code 306.305(b) - Amended Petition in Response to February 15, 1996 Board Order (4/1)</u>	(ED)
AS 96-9	<u>Petition of Commonwealth Edison Company for an Adjusted Standard from 35 Ill. Adm. Code Part 814 - (See Petitioner's Request for Waiver of the Requirement to File Ten Copies of Petitioner's Exhibit 13 filed (4/1) - Hold for Certificate of Publication - No Order</u>	

DECISIONS

95-135	<u>People of the State of Illinois v. Yesley Service Corporation, Inc. - Stipulation</u>	(RCF)
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ADMINISTRATIVE CITATIONS

AC 94-24	<u>IEPA v. Frank Blair - Joint Stipulation of Settlement and Dismissal (4/1)</u>	(McF)
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ADMINISTRATIVE CITATIONS (Cont'd)

AC 96-2 IEPA v. William E. Hanna - Respondent's Motion to Withdraw
Petition for Review (3/21) (JY)

AC 96-35 County of LaSalle v. CSX Transportation - Default Order

MOTIONS

93-250 People of the State of Illinois v. Clark Oil & Refining
Corporation - Motion for Relief from Hearing Requirement (4/1) (ED)

94-146 Dorothy L. Hoffman v. City of Columbia - Complainant's Motion
for Extension of Time (2/20), Complainant's Motion for
Extension of Time (3/18) (JY)

95-100 C&S Recycling, Inc. v. IEPA - Petitioner's Motion to Stay
Proceedings (3/11), Agency Objection to Petitioner's Motion to
Stay Proceedings (3/18) (ED)

96-52 Raleigh Realty Corporation v. IEPA - Petitioner's Motion for
Summary Judgment, and Motion to File a Reply Brief in the
Event the Agency Files a Response to Petitioner's Motion for
Summary Judgment (3/11), Agency's Response to Petitioner's
Motion for Summary Judgment and Agency's Motion for
Summary Judgment, Agency's Motion to File Agency's
Response to Petitioner's Motion for Summary Judgment and
Agency's Cross-Motion for Summary Judgment in Excess of
Fifteen Pages (3/27) (JTM)

96-59 Earle Aronson (Don's Gas For Less) v. Office of the State Fire
Marshal - Petitioner's Motion to Voluntarily Dismiss Petition for
Review (3/21) (GTG)

MOTIONS (Cont'd)

96-85 The County of Kane, Illinois and Waste Management of Illinois, Inc. v. IEPA - Petitioners' Motion to Reconsider or Clarify February 1, 1996 Opinion and Order (3/6), Agency's Response to Petitioner's Motion to Reconsider or Clarify (3/20), City of Geneva's Response to Petitioner's Motion for Reconsideration or Clarification (3/20), Petitioners' Motion to Strike Geneva's Response to Motion to Reconsider or Clarify (3/28) (CAM)

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 Instanter Motion to Dismiss Complainant's Complaint and Memorandum in Support of Motion to Dismiss (2/6), Complainant's Objection to Respondents' Motion for Leave to File Instanter Motion to Dismiss Complaint and Memorandum in Support of Motion to Dismiss (2/15), Respondents' Reply to Complainant's Objection to Respondents' Motion for Leave to File Instanter Motion to Dismiss Complaint and Respondents' Motion for Leave to File reply to complainant's Objection to Respondents' Motion for Leave to File Instanter Motion to Dismiss Complaint (2/27), Complainant's Motion to Strike Respondents' Motion for Leave to File Reply (3/7) (CAM)

96-149 People of the State of Illinois v. Wittridge Builders, Inc. - Motion to Request Relief from Hearing Requirement (3/22) (JTM)

96-184 J.M. Sweeney Company v. IEPA - Agency Motion for Extension of Time in Which to File Recommendation (3/25) (JTM)

96-198 Land and Lakes Company v. IEPA - Board Order (JY)

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

91-202	<u>Sherex Chemical Company, Inc. v. IEPA</u> - Petitioner's Status Report in Response to December 7, 1995 Board Order (3/25), Agency Status Report in Response to December 7, 1995 Board Order (4/1)	(ED)
96-134	<u>Schilling Petroleum Company (Hi Horse Mobil) v. IEPA</u> - Dismissal Order	(CAM)
96-179	<u>Gilbert & Lenda Marshall v. Danny Ligenfelter, individually and as President of Central Illinois Dirt Riders Association</u> - Hold for Duplicitous/Frivolous Determination	(ED)
96-186	<u>Mr. & Mrs. Don Williams, Mr. & Mrs. Thomas Morris, and Mr. & Mrs. Peter Bizios v. Schaumburg Park District</u> - Hold for Duplicitous/Frivolous Determination	(ED)
96-191	<u>White Cap, Inc. v. IEPA</u> - (See Petitioner's Motion to Incorporate Documents by Reference filed 3/6; Agency's Motion to File Response to the Petitioner's Motion to Incorporate Documents by Reference filed 4/1; Agency's Motion for Extension of Time in Which to File Recommendation filed 4/2) - Accept for Hearing Order	(JTM)
96-195	<u>City of Prospect Heights v. IEPA</u> - Additional Information Order	(RCF)
96-200	<u>People of the State of Illinois v. Pelmore Construction, Inc., and Eddie L. Pelmore, individually and as President of Pelmore Construction, Inc.</u> - Hearing Mandatory - No Order	(JTM)
96-201	<u>People of the State of Illinois v. Coalville Road Enterprises, Inc., f/k/a Streator Area Landfill, Inc.</u> - Hearing Mandatory - No Order	(ED)

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

96-202 People of the State of Illinois v. Donald and Robert Hastie, d/b/a
Hastie Trucking and Mining Company - Hearing Mandatory - No
Order (GTG)

96-203 People of the State of Illinois v. L. Keller Oil Properties, Inc., and
Charles F. Keller - (See Complainant's Request to Withdraw
the Pleadings and to Allow the Board to Close the Docket
filed 4/1) (JY)

96-204 Downtown Oil v. IEPA - Joint 90-Day Extension Request (3/26) (CAM)

96-205 Daily Southtown, Inc. v. IEPA - Petitioner's 90-Day Extension
Request (3/27), Agency's Agreement to 90-Day Extension (4/1) (CAM)

96-206 Anne Shepard, James Verhein and Jerold Leckman v. Northbrook
Sports Club - Hold for Duplicitous/Frivolous Determination

96-207 People of the State of Illinois v. Piece Work Specialists, Inc. -
Hearing Mandatory - No Order

96-208 People of the State of Illinois v. Frank Merkendorfer, Belden
Tools, Inc. and Phil Pinello - Hearing Mandatory - No Order

96-209 People of the State of Illinois v. Macon County Landfill
Corporation - Hearing Mandatory - No Order

CASES PENDING DECISION

AS 96-1 Petition of Illinois Power Company (Baldwin Power Plant) for an
Adjusted Standard from 35 Ill. Adm. Code 302.208 and 35 Ill.
Adm. Code 304.105 Regarding the Parameter Boron (RCF)

CASES PENDING DECISION (Cont'd)

PCB 96-22 Mr. Lew D'Souza and Mrs. Patricia D'Souza v. Mr. Richard Marraccini and Mrs. Joanne Marraccini (JY)

ADJOURNMENT

LIST OF NEW CASES FILED SINCE MARCH 7, 1996 BOARD MEETING

96-200	People of the State of Illinois v. Pelmore Construction, Inc., and Eddie L. Pelmore, individually and as President of Pelmore Construction, Inc.
96-201	People of the State of Illinois v. Coalville Road Enterprises, Inc., f/k/a Streator Area Landfill, Inc.
96-202	People of the State of Illinois v. Donald and Robert Hastie, d/b/a Hastie Trucking and Mining Company
96-203	People of the State of Illinois v. L. Keller Oil Properties, Inc., and Charles F. Keller
96-204	Downtown Oil v. IEPA
96-205	Daily Southtown, Inc. v. IEPA
96-206	Anne Shepard, James Verhein and Jerold Leckman v. Northbrook Sports Club
96-207	People of the State of Illinois v. Piece Work Specialists, Inc.
96-208	People of the State of Illinois v. Frank Merkendorfer, Belden Tools, Inc. and Phil Pinello
96-209	People of the State of Illinois v. Macon County Landfill Corporation

REGULAR BOARD MEETING SCHEDULE FOR THE REMAINDER OF FY 96

April 18

May 2

May 16

June 6

June 20

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

REGULAR BOARD MEETING SCHEDULE FOR THE FIRST HALF OF FY97

July 18

August 1

August 15

September 5

September 19

October 3

October 17

November 7

November 21

December 5

December 19

NOTE: All Board Meeting will be held in Conference Room 9-040 unless otherwise noted