

MINUTES OF REGULAR BOARD MEETING
MAY 7, 1992 CHICAGO, ILLINOIS

All Board Members were present.

An Order was adopted in #AC 89-215(B), Omer Thomas, by a vote of 6-1. J. Theodore Meyer dissented. (BF)

An Opinion and Order was adopted in #91-223, Waste Hauling, by a vote of 7-0. J. Anderson concurred. (JTM)

Board Member B. Forcade presented a draft Opinion and Order in #92-9, Platolene 500, Inc. Motion to amend by J. Anderson, seconded by J.C. Marlin, carried by a vote of 4-3 with J. Anderson, J.C. Marlin, J. Theodore Meyer and M. Nardulli for it, and B. Forcade, R.C. Flemal and G. Tanner girard against it. An amended Opinion and Order was then adopted by a vote of 7-0. (BF)

In R90-8, NPDES De Novo Hearings Repeal, an Opinion and Order was adopted by a vote of 6-1. B. Forcade dissented. (MN)

In R92-1, RCRA Update, USEPA Regulations (July 1, 1991 through December 31, 1992), a Proposal for Public Comment, Proposed Opinion and Order was adopted by a vote of 7-0. (JA)

Default Orders were adopted in these Administrative Citations by a vote of 7-0: #92-20, Everett Allen; 92-21, Everett Allen; 92-22, Everett Allen; 92-23, John Jennings; 92-24, White & Brewer Trucking; 92-25, Envotech, Illinois.

By a vote of 7-0, the Board, on its own motion, dismissed the petition for review, assessed Respondent a \$1,000.00 penalty and closed the docket, in #AC 90-28, Arthur Miller. (JCM)

An Order, dismissing the matter for failure to perfect service and closing the docket, was adopted in #AC 92-15, ESG Watts, Inc., by a vote of 7-0. (JCM)

An Order, construing Respondent's letter dated April 30, 1992 as a motion to reconsider and to vacate the Board's default Order, and directing the Agency to file a response to be received by the Board on or before May 20, 1992, was adopted in #AC 92-16, Harold Hillebrenner, by a vote of 7-0. (JCM)

An Order, directing the parties to file another status report, to be received by the Board no later than August 1, 1992, was adopted in #AS 90-5, R. Lavin & Sons, by a vote of 7-0. (MN)

An Order, directing the petitioner to file another status report, to be received by the Board no later than September 1, 1992, was adopted in #AS 90-6, Marathon Petroleum Company, by a vote of 7-0. (MN)

An Order directing the Agency to submit to the Board, on or before

May 15, 1992, an explanation as to why, if a facility is out of compliance, a compliance plan by itself "negates the need" for an adjusted standard or other relief from the Board, was adopted in #AS 92-1, Stiffel company, by a vote of 7-0. (JCM)

An Order directing the Agency to file its variance recommendation with the Board to be received by the Board no later than 30 days from the date of the entry of this Order, was adopted in #90-27, Shell Oil company, by a vote of 7-0. (MN)

By a vote of 7-0, the Board reconsidered and vacated its Order of April 9, 1992 setting the matter for hearing by May 11, 1992, directed the hearing officer to schedule the matter for hearing by June 15, 1992, to finish all hearings by August 30, 1992, and to set a post-hearing briefing schedule if required, in #90-89, Fred Johnson et al.. Failure to complete hearings according to this schedule will subject the proceedings to dismissal for want of prosecution. (BF)

Petitioner's motion to withdraw was granted in #90-189, Modine Manufacturing Company, by a vote of 7-0. (MN)

By a vote of 7-0, the Board reconsidered and vacated its April 9, 1992 Order setting the matter for hearing, and directed the parties to submit a status report to be received by the Board no later than June 15, 1992, in #90-214, Quantum Chemical. (MN)

By a vote of 7-0, a joint motion for reconsideration was granted and upon reconsideration, the Board vacated its April 9, 1992 Order, and directed the parties to file a status report with the Board to be received by the Board no later than June 30, 1992, in #90-244, General Electric company. (MN)

By a vote of 7-0, Petitioner's motion for reconsideration was granted and upon reconsideration, the Board vacated its April 9, 1992 Order setting the matter for hearing by July 15, 1992, and directed the parties to submit a status report to be received by the Board no later than August 1, 1992, in #91-31, Rockford Products. B. Forcade concurred. (MN)

By a vote of 6-0, a joint motion to reconsider was granted and upon reconsideration, the Board vacated its April 9, 1992 Order, ordered the hearing officer to set the matter for hearing by June 30, 1992, to finish all hearings by September 3, 1992, and to set a post-hearing briefing schedule if required in #91-56, Douglas Furniture of California. B. Forcade abstained. (MN)

By a vote of 6-0, a joint motion to stay the scheduling of a hearing was granted, and the parties were directed to file another status report with the Board to be received by the Board no later than June 30, 1992, in #91-71, Douglas Furniture of California. B. Forcade abstained. (MN)

An order directing the parties to file another status report with the Board to be received by the Board within 30 days from the date of the entry of the order, was adopted in #91-94, Safety-Kleen Corporation, by a vote of 7-0. (MN)

Agency motion for partial summary judgment was denied in #91-20, Sherox Chemical Company, by a vote of 7-0. (JA)

Agency motion for extension of time to file the Agency record was granted until May 21, 1992 in #92-23, The Grigolet Company, by a vote of 7-0. (JA)

Agency motion to file the record instanter was granted in #92-36, City of Lake Forest, by a vote of 7-0. (JTM)

Petitioner's motion to supplement the record was granted in #92-42, Burwell Oil Service, by a vote of 7-0. (JCM)

Motion to make more definite and certain the appeal from deemed approval of local siting application was denied in #92-55, Stephen A. Smith et al., by a vote of 6-0. J.C. Marlin abstained. (JTM)

An order granting the Agency's motion for acceptance of proposal and motion that it not be required to file two costly documents it seeks to incorporate by reference, and authorizing and directing the hearing officer to require the Agency to provide any additional information which may be necessary, was adopted in R91-20, Potentially Infectious Medical Waste (PIMW): Treatment, Storage, and Transfer Facilities and Transportation, by a vote of 7-0. (RCF)

These cases were discussed and ordered held to May 21, 1992 for further discussion or possible decision: R89-15, National Lovelass; 91-113, Department of the Army; 91-118, City of Braidwood; 91-205, Fred & Cynthia Strube; 91-256, Gallatin National; 92-18, Village of Glasford.

These regulatory matters were discussed and ordered held to May 21, 1992 for further discussion or possible decision: R89-15, Underground Injection, Opinion and Order; R90-1, Toxic Air Contaminants List, Proposed Rule, Second Notice, Opinion and Order; R91-13, RCRA Update (January 1, 1991 through June 30, 1991); R91-30, RACT Amendments: Stage II Vapor Recovery, Proposed Rule, Second Notice, Proposed Opinion and Order.

In new cases these actions were taken by a vote of 7-0: #92-27, Richard J. Pecka and Janice M. Pecka v. Skyjarks Remote Control Airplane Club and John Crown, Golden Oaks Farm, Respondents' motions to dismiss were granted, J. Theodore Meyer concurred, Order by J.C. Marlin; 92-48, Bruce Nesbitt v. The 100 Bellevue Place Condominium Association, held for duplicitous/trivious determination; 92-60, Kean Oil Company v. EPA, accepted for

hearing, Order by B. Forcade; 92-61, Ethyl Petroleum Additives, Inc. v. EPA, accepted for hearing, Order by B. Forcade; 92-62, Galesburg Cottage Hospital v. EPA, accepted for hearing, Order by B. Forcade; 92-63, Department of the Air Force, Scott Air Force Base v. EPA, additional information requested, Order by J. Anderson; 92-64, Montgomery County Highway v. EPA, provisional variance granted, Order by J.C. Marlin.

In new administrative citation cases these actions were taken by a vote of 7-0: #92-26, County of Ogle v. City of Rochelle and Rochelle Disposal Service, Inc., ordered held to May 21, 1992 for further consideration; 92-32, accepted by the Board; 92-33, St. Clair County v. James Alexander, President Alexander Development Company, Inc., accepted by the Board.

In new adjusted standards these actions were taken by a vote of 7-0: #92-3, Jefferson Smurfit Corporation, additional information requested, Order by R.C. Fleming; 92-4, Joint Petition of Detroit Diesel Corporation, Navistar International Transportation Corporation, Cummins Engine Company and the Engine Manufacturers, ordered held to May 21, 1992 for further consideration.

Minutes of the April 23, 1992 Meeting were approved by a vote of 7-0.

An Opinion and Order was adopted in #92-37, People of the State of Illinois v. ARO Ready Mix, Inc., a/k/a ARO Concrete, by a vote of 7-0. (JCM)

An Order directing the parties to submit a status report with the Board to be received by the Board no later than May 21, 1992, was adopted in #90-198, Commonwealth Edison Company, by a vote of 7-0. (MN)

In other new cases these actions were taken by a vote of 7-0: #92-65, Advance Excello Colors v. EPA, provisional variance granted, Order by J.C. Marlin; 92-66, Oak Grigsby v. EPA, provisional variance granted, Order by J.C. Marlin.

All other matters not disposed of as listed were ordered held to May 21, 1992 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 21st day of May, 1992, by a vote of 7-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
MAY 7, 1992 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
1:00 P.M.

ADDENDUM

DECISIONS:

92-37 People of the State of Illinois v. ARO Ready Mix, Inc., a/k/a ARO Concrete (JCM) (stip)

MOTIONS:

90-198 Commonwealth Edison Company - Status Report Board Order (MN)

NEW CASES:

92-65 Advance Excello Colors v. EPA (Provisional Variance) (JCM)

92-66 Oak Grigsby v. EPA (Provisional Variance) (JCM)

FINAL AGENDA
MAY 7, 1992 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
1:00 P.M.

DECISIONS:

AC 89-215 Omer Thomas (BF) _____ (B)

90-135 The Grigolet Company (JA) _____

90-148 B & M Steel Service Center (GTG) _____

90-149 Straders Logging & Lumber Mill (GTG) _____

90-200 Vito Zivoli (JA) _____

91-136 Don Bolender (JA) _____

* 91-223 Waste Hauling (JTM) (due) _____

* 92-9 Platolene 500, Inc. (BF) (due) _____

R90-8 NPDES De Novo Hearings Repeal, Opinion and Order (MN) _____

R92-1 RCRA Update, USEPA Regulations (July 1, 1991 through December 31, 1991), Proposal for Public Comment, Proposed Opinion and Order (JA) _____

AC DECISIONS:

92-20 Everett Allen _____

92-21 Everett Allen _____

92-22 Everett Allen _____

92-23 John Jennings _____

* INDICATES VARIANCE OR PERMIT APPEAL

AC DECISIONS: (cont'd)

- 92-24 White & Brewer Trucking
- 92-25 Envotech, Illinois

MOTIONS:

- AC 90-28 Arthur Miller - Board Order (JCM)

- AC 91-32 Rochelle Disposal Services - Respondent's motion to strike and dismiss (4/7), Complainant's motion to strike and dismiss Respondent's motion to strike and dismiss (4/15), motion and argument for summary judgment by Rochelle Disposal Service (4/15), Complainant's response to Respondent's motion and argument for summary judgment (4/22) (JCM)

- AC 91-45 Rochelle Disposal Service - Respondent's motion for leave to file instanter a motion to dismiss (4/6), Respondent's motion for leave to supplement instanter prior motion to dismiss (4/8), Complainant's motion to strike and dismiss Respondent's motion to strike and dismiss (4/9), Complainant's motion to strike and dismiss Respondent's motion for leave to file instanter (4/15), motion for permission to reply to Complainant's motion to strike and dismiss Respondent's motion (4/15), Complainant's response to Respondent's motion and argument for summary judgment (4/22) (Note: the Respondent did not file a motion and argument for summary judgment in this case)

- AC 92-15 ESG Watts - Board Order (JCM)

- AC 92-16 Harold Hillebrenner - Respondent's Petition for Review (5/4) (JCM)

- AC 92-30 Illinois National Bank - motion to dismiss by First of America Trust Company (4/24)

MOTIONS: (cont'd)

- AS 90-5 R. Lavin & Sons - Agency status report in response to February 6, 1992 Board Order (5/4), Petitioner's status report in response to February 6, 1992 Board Order (5/4) (MN)
- AS 90-6 Marathon Petroleum Company - Petitioner's status report in response to February 6, 1992 (5/4) (MN)
- AS 91-6 Dart Container Corporation - Agency status report in response to April 23, 1992 Board order (5/4)
- AS 92-1 Stiffel Company - Agency motion for a sixty-day extension of time within which to respond to Petitioner's petition for adjusted standard (4/23), Agency motion instanter for a sixty-day extension of time within which to respond to Petitioner's petition for adjusted standard (4/30) (JCM)
- 90-27 Shell Oil Company - Status Report in response to February 6, 1992 Board and motion to file instanter (4/22)
- 90-89 Fred Johnson et al. - Agency motion for continuance (5/1) (BF)
- 90-146 Village of Matteson - Complainant's motion to compel entry of final order (5/1) (BF)
- 90-189 Modine Manufacturing Company - Petitioner's status report in response to February 6, 1992 Board Order (4/3); Petitioner's motion to withdraw (4/23) (MN)
- 90-214 Quantum Chemical - Joint motion to allow the filing of status reports in lieu of hearing (4/20) (MN)
- 90-244 General Electric Company - Joint motion for reconsideration and extension of hearing date (5/5) (MN)

MOTIONS: (cont'd)

- 91-31 Rockford Products - petitioner's motion for reconsideration of April 9, 1992 Board Order (4/24)

- 91-56 Douglas Furniture of California - joint motion to modify April 9, 1992 Board Order (5/5) (MN)

- 91-71 Douglas Furniture of California - joint status report and motion to stay scheduling of hearing (5/5)

- 91-83 Village of Lincolnwood - Agency motion for summary judgment (4/27) (MN)

- 91-94 Safety-Kleen Corporation - joint status report in response to April 9, 1992 Board Order (4/27)

- 91-163 Clinton County Oil Company - Agency motion for reconsideration of March 26, 1992 Opinion and Order, Memorandum in support of motion for reconsideration and affidavit of G. Tod Rowe (4/30) (MN)

- 91-192 Prairie Material Sales - Respondent's request for reconsideration of Board's March 26, 1992 Order granting summary judgment in part, request for stay of discovery and for right to reply to Complainant's response (5/4) (JA)

- 91-194 Residents of Cedarville - Respondent's motion to dismiss (3/27), Respondent's response to April 23, 1992 Board Order (5/4)

- 91-202 Sherex Chemical Company - Agency motion for partial summary judgment (4/20), petitioner's response to Agency motion for partial summary judgment (4/28) (JA)

- 92-23 The Grigolet Company - Agency motion for extension of time to file Agency record (4/27) (JA)

MOTIONS: (cont'd)

92-36 City of Lake Forest - Agency motion to file Record Instantner (5/4)(JTM)

92-42 Burwell Oil Service - Petitioner's motion to supplement record (4/9)(JCM)

92-55 Stephen A. Smith et al. - motion to make more definite and certain the appeal from deemed approval of local siting application (4/23), Petitioners' response to motion to make more definite and certain the appeal from deemed approval of local siting application (4/27)(JTM)

R91-20 Medical Wastes T/S/T Facilities - Agency motion for acceptance, motion regarding incorporation by reference (4/27)(RCF)

DISCUSSIONS:

AC 91-31 (A & B)

Randall Lovelless (JCM)

* 91-113 Department of the Army (BF) (open waiver)

* 91-118 City of Braidwood (JCM) (due 5/21)

* 91-205 Fred & Cynthia Strube (BF) (due 5/21)

* 91-256 Gallatin National (JA) (due 6/4)

* 92-18 Village of Glasford (JCM) (due 5/21)

REGULATORY DISCUSSIONS:

R89-15 Underground Injection (MN)

R90-1 Toxic Air Contaminants List, Proposed Rule, Second Notice, Opinion and Order (JCM)

REGULATORY DISCUSSIONS: (cont'd)

- R91-13 RCRA Update (January 1, 1991 through June 30, 1991) (JA)
- R91-30 RACT Amendments: Stage II Vapor Recovery, Proposed Rule, Second Notice, Proposed Opinion and Order (RCF)

NEW CASES:

- 92-27 Richard J. Becka and Janice M. Becka v. Skylarks Remote Control Airplane Club and John Crown, Golden Oaks Farm, Respondent John Crown's motion to strike and dismiss complaint (3/2), Skylarks Remote Control Airplane Club's answer to formal complaint (3/12), Complainants' rebuttal to answer to formal complaint (3/23), Complainants' response to threshold issue (4/9), Skylarks Remote Control Airplane Club's motion to extend time to file response (4/16), Respondent Skylarks Remote Control Airplane Club's response to March 26, 1992 Board Order (4/20), Respondent John Crown (Golden Oaks Farm) Memorandum in response to March 26, 1992 Board Order (4/21)(JCM)
- 92-48 Bruce Nesbitt v. The 100 Bellevue Place Condominium Association (see also Respondent's motion to dismiss (4/9); Complainant's motion for leave to file opposition to Respondent's motion to dismiss on or before April 22, 1992 (4/16); Complainant's Memorandum in opposition to Respondent's motion to dismiss (4/22); Respondent's motion for leave to file a reply to Complainant's response to Respondent's motion to dismiss (4/27); Respondent's reply to Complainant's response to Respondent's motion to dismiss (5/6)

- 92-60 Kean Oil Company v. EPA (BF)
- 92-61 Ethyl Petroleum Additives, Inc. v. EPA (BF)
- 92-62 Galesburg Cottage Hospital v. EPA (BF)

NEW CASES: (Cont'd)

- 92-63 Department of the Air Force, Scott Air Force Base v. EPA
- 92-64 Montgomery County Highway v. EPA (Provisional Variance) (JCM)

NEW AC CASES:

- 92-26 County of Ogle v. City of Rochelle and Rochelle Disposal Service, Inc. (See also Complainant's motion for leave to amend caption of Administrative Citation filed 4/6; petition for review and motion to strike and dismiss by Rochelle Disposal Service filed 4/15; Complainant's response to Respondent's motion to strike and dismiss filed 4/22 and petition for review by the City of Rochelle filed 5/4)
- 92-32 Sangamon County v. Charles R. Fuchs, Nancy L. Fuchs, Troy Curley and Judith Curley
- 92-33 St. Clair County v. James Alexander, President Alexander Development Company, Inc.

NEW ADJUSTED STANDARDS:

- AS 92-3 Jefferson Smurfit Corporation

- AS 92-4 Joint Petition of Detroit Diesel Corporation, Navistar International Transportation Corporation, Cummins Engine Company and the Engine Manufacturers (5/4)

MINUTES:

April 23, 1992

PENDING CASES ASSIGNED:

85-140	Citizens Utilities Company (MN)	*
85-166	Citizens Utilities Company (JTM) (open waiver)	*
86-1	City of Peru CSO (JTM)	
86-2	City of Lasalle CSO (JTM)	
86-4	City of Morris CSO (RCF)	
86-161	Elizabeth Street Foundry (GTG)	
88-193	General Motors (BF) (open waiver)	*
89-44)	Moline Corporation (BF)	
89-87)		
89-171	Pekin Energy Company (MN) (open waiver)	*
89-177	CWM Chemical Services (JTM) (open waiver)	*
90-31	R. Lavin & Sons, Inc. (RCF) (due 12/17)	*
90-53	Industrial Fuels (Appellate Court Remand) (JA)	
90-108	Joseph B. & Pamela J. Stratton (JTM)	
90-135	The Grigolet Company (JA)	
90-143	Ohio Grain Company (GTG) (open waiver)	*
90-146	Village of Matteson (BF)	
90-170	Goose Lake Association (JA)	
90-182	Ronald E. & Susan Tex (MN)	
91-3	Peoria Disposal (MN)	AS
91-5	Elizabeth Street Foundry (GTG)	AS
91-7	Sanitary District of Decatur (GTG)	AS
91-9	City of East Moline (RCF) (due 9/3)	AS
91-10	Cabot Corporation (JA)	AS
91-11	Illinois-American Water Company (RCF) (open waiver)	AS
91-12	Illinois-American Water Company (RCF) (open waiver)	AS
91-13	City of Rock Island (RCF) (due 8/13)	AS
91-17	B.F. Goodrich Corporation (RCF) (due 8/13)	*
91-30	Susan Curtis & Marcy Dising (JCM)	
91-31	Randall Lovelless (JCM)	AC
91-34	William S. Popejoy (JTM)	AC
91-75	Community Consol. School Dist. No. 15 (BF) (open waiver)	*
91-83	Village of Lincolnwood (MN) (open waiver)	*
91-86	Raymond & Mary Moore (JA) (due 9/3)	*
91-153	Clyde R. Dace (JA)	
91-157	The Grigolet Company (JA)	
91-193	Park Crematory, Inc. (BF)	
91-237	Laidlaw Environmental Services (RCF) (due 6/25)	*
91-238	Laidlaw Environmental Services (RCF) (due 6/25)	*
91-243	Smith Oil Company of Kankakee (GTG) (due 7/30)	*
91-260	Capital Asset Corporation (BF) (due 7/9)	*
92-10	Kelly Williamson Company (BF) (due 10/15)	*
92-22	Warren's Service (GTG) (due 6/4)	*
92-23	The Grigolet Company (JA) (due 6/4)	*
92-25	Land and Lakes Company (MN) (due 6/4)	*
92-28	CSX Transportation, Inc. (MN) (due 8/13)	*
92-30	Dynamic Hydra-Blasting, Inc. (JA) (due 6/4)	*


PENDING CASES ASSIGNED: (cont'd)

92-31	*	CITY OF ROODHOUSE (JA) (due 8/13)
92-36	*	CITY OF LAKE FOREST (JTM) (due 6/25)
92-37	*	ARO Ready Mix (JCM)
92-55	*	Stephen A. Smith et al. (JTM) (due 8/13)

Posted and Circulated May 5, 1992

Chairman

JOHN C. MARLIN



The Illinois Pollution Control Board Meeting scheduled for Thursday, May 7, 1992 will begin at 1:00 p.m. instead of 10:30 a.m., in Room 9-040 in the State of Illinois Center, 100 W. Randolph Street, Chicago, Illinois.

NOTICE OF CHANGE IN BOARD MEETING STARTING TIME

BILL S. FORCADE
CHICAGO, ILLINOIS
G. TANNER GIRARD
GRAFTON, ILLINOIS
J. THEODORE MEYER
CHICAGO, ILLINOIS
MICHAEL L. NARDULLI
CHICAGO, ILLINOIS

JOHN C. MARLIN, CHAIRMAN
URBANA, ILLINOIS
JOAN G. ANDERSON
WESTERN SPRINGS, ILLINOIS
RONALD C. FLEMAL
DEKALB, ILLINOIS

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POLLUTION CONTROL BOARD

ILLINOIS
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STATE

