

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING
JUNE 4, 1992 CHICAGO, ILLINOIS

All Board Members were present.

An Opinion and Order was adopted in #88-193, General Motors, by a vote of 7-0. (BF)

An Opinion and Order was adopted in #90-13, The Grigoleit Company, by a vote of 7-0. B. Forcade concurred. (JA)

J. Anderson presented a draft Opinion and Order in #91-256, Gallatin National. The draft Opinion and Order was defeated by a vote of 3-4, with J. Anderson, G. Tanner Girard and M. Nardulli for it, and R.C. Flemal, B. Forcade, J.C. Marlin and J. Theodore Meyer against it. The case will be reassigned.

An Opinion and Order was adopted in #92-22, Warren's Service, by a vote of 7-0. (GTG)

An Opinion and Order was adopted in #92-25, Land and Lakes, by a vote of 6-1. J. Anderson dissented and J. Theodore Meyer concurred. (MN)

An Opinion and Order was adopted in #92-51, People of the State of Illinois v. United Coatings, Inc., by a vote of 6-1. J. Theodore Meyer dissented. (JCM)

In R90-1(A), Toxic Air Contaminants List, a Proposed Rule, Second Notice, Opinion and Order was adopted by a vote of 7-0. (JCM)

In R90-23, General Motors Corporation Site-Specific, a Proposed Rule, First Notice, Opinion and Order was adopted by a vote of 7-0. (BF)

An Order correcting minor typographical errors discovered in preparing the final rules for publication and filing, was adopted in R91-13, RCRA Update, USEPA Regulations (January 1, 1991 through June 30, 1991), by a vote of 7-0. (JA)

In R91-20, Potentially Infectious Medical Waste (PIMW): Treatment, Storage, and Transfer Facilities, an Order determining that an Economic Impact Study need not be prepared at this time, was adopted by a vote of 7-0. (RCF)

In R91-28, RACT Amendments: Expansion of Chicago MSA, a Proposed Rule, Second Notice, Opinion and Order was adopted by a vote of 7-0. (RCF)

In R91-29, RACT Amendments: Expansion of Metro-East MSA, a Proposed Rule, Dismissal Order was adopted by a vote of 7-0. (RCF)

In R91-30, RACT Amendments: Stage II Vapor Recovery, a Proposed Rule, Second Notice, Opinion and Order was adopted by a vote of 7-0. (RCF)

In R92-2, UST Update, USEPA Regulations (July 1, 1991 through December 31, 1991), a Dismissal Order was adopted by a vote of 7-0. (JA)

In R92-7, Amendments to 35 Ill. Adm. Code 101.103(d) Regarding Recycled Paper, a Proposed Rule, First Notice, Opinion and Order was adopted by a vote of 7-0. (JTM)

A Default Order was adopted in this Administrative Citation by a vote of 7-0: #92-30, Ray Landers.

Respondent's motions to dismiss and for summary judgment were denied in #AC 91-32, Rochelle Disposal Service, by a vote of 7-0. (JCM)

An Order granting Respondent's motion for leave to file instanter a motion to dismiss and motion for leave to supplement instanter its prior motion, denying Complainant's motion to strike and dismiss, granting Respondent's motion for leave to file its response to Complainant's motion to strike and dismiss and, as hearing has already been held, denying Respondent's motions for summary judgement and to dismiss, was adopted in #AC 91-45, Rochelle Disposal Service, by a vote of 7-0. (JCM)

Agency motion for an extension of time to file its response was granted until July 9, 1992 in #AS 92-4, Joint Petition of Detroit Diesel Corporation et al., by a vote of 7-0. (JA)

An Order affirming the hearing officer's denial of Respondent, World Music Theatre's, motion to postpone the hearing, was adopted in #90-146, Village of Matteson, by a vote of 6-1. J. Theodore Meyer dissented. (BF)

Since the parties indicated in its status report pursuant to the Board's Order of May 7, 1992 that its NPDES permit will be issued in final form by the Agency on June 1, 1992, an Order directing the Petitioner to advise the Board by appropriate filing to be received on or before June 22, 1992, what further action, if any, should be taken, was adopted in #90-198, Commonwealth Edison Company, by a vote of 7-0. (GTG)

An Order granting Petitioner's agreed motion for stay until September 5, 1992 at which time the parties were directed to file a status report, was adopted in #91-49, LTV Steel Company, by a vote of 7-0. (GTG)

An Order granting Petitioner's motion for leave to file its response to the Agency's motion for summary judgment and to supplement the record instanter and also granting the Agency's motion for summary judgment was adopted in #91-83, Village of Lincolnwood, by a vote of 7-0. (MN)

By a vote of 5-2, an Agency motion for reconsideration was granted, and upon reconsideration, the Board affirmed its March 26, 1992 determination that eligibility was not at issue and that the Agency's imposition of the \$50,000 deductible must be reversed in #91-163, Clinton County Oil Company. Messrs. R.C. Flemal and B. Forcade dissented. (MN)

By a vote of 7-0, an Agency motion for reconsideration was granted, and upon reconsideration, the Board reaffirmed its April 9, 1992 decision in #91-174, Enterprise Leasing Company, that \$27,871.68 for costs associated with tank removal is reimbursable by the Underground Storage Tank Fund. (JTM)

Petitioner's motion to dismiss was granted in #91-260, Capital Asset Corporation, by a vote of 7-0. (BF)

Petitioner's motion to dismiss was granted in #92-30, Dynamic Hydra-Blasting, by a vote of 7-0. (BF)

Petitioner's petition to withdraw was granted in #92-40, Waste Hauling, by a vote of 7-0. (BF)

Agency motion to extend the time to file the record was granted until June 14, 1992 in #92-43, Safety-Kleen Corporation, by a vote of 7-0. (JCM)

An Order, granting the Agency's motion for leave to correct printer deletions in the Agency's motion for summary judgment but denying the Agency's motion for summary judgment, was adopted in #92-53, Martin Oil Marketing, by a vote of 7-0. (JA)

These cases were discussed and held to June 23, 1992 for further discussion or possible decision: ##AS 91-7, Decatur Sanitary District; AC 91-31(A & B), Randall Loveless; AC 91-34 (A & B), William S. Popejoy, Sr.; 92-36, City of Lake Forest.

In new cases these actions were taken by a vote of 7-0: ##92-74, Kenneth F. Metivier and Cynthia P. Metivier v. Douglas Kenyon, d/b/a Douglas Kenyon, Inc., Respondent's motion to dismiss denied and case accepted for hearing, Order by J. Anderson; 92-78, Amoco Chemical Company, Amoco Petroleum Additives Company (Wood River Facility) v. EPA, Petitioner encouraged by the Board to seek conditional protection for the confidential documents submitted and case accepted for hearing, Order by B. Forcade.

B. Forcade presented a draft Order in new case #92-79, U.S.

Department of Energy and the University of Chicago (Argonne National Laboratory) v. EPA. Motion to amend by J. Anderson failed by a 2-5 vote with J. Anderson and J. Theodore Meyer for the amendment and R.C. Flemal, B. Forcade, G. Tanner Girard, J.C. Marlin and M. Nardulli against it. An Order accepting the matter for hearing was then adopted by a vote of 5-2. J. Anderson and J. Theodore Meyer dissented. (BF)

In other new cases these actions were taken by a vote of 7-0: ##92-80, Lake County Forest Preserve District v. Neil Ostro, Janet Ostro, and Big Foot Enterprises, held for duplicitous/frivolous determination; 92-81, James Lynch v. EPA, additional information requested, Order by G. Tanner Girard; 92-82, Lawrence Brothers, Inc. v. EPA, provisional variance granted, Order by J.C. Marlin; 92-83, Harlem Township v. EPA, accepted for hearing, Order by B. Forcade; 92-84, People of the State of Illinois v. Berkshire Furniture Company, d/b/a Fashion Bed Group and formerly known as Allegheny Steel and Brass Corporation, hearing mandatory.

In new Administrative Citation #AC 92-26, County of Ogle v. City of Rochelle and Rochelle Disposal Service, Inc., these actions were taken by a vote of 7-0: Complainant's motion for leave to amend the caption of the administrative citation was granted, Rochelle Disposal Service's motions to dismiss and for summary judgment were denied, and because petitions for review were filed, the matter will be set for hearing. (JCM)

These new Administrative Citations were received by the Board: ##92-39, County of Jackson v. Leslie Norman Fred, d/b/a Norman Fred Trucking; 92-40, County of Jackson v. David Futrell; 92-41, EPA v. Lakewood Homes & Development Company, Inc.; 92-42, EPA v. Robert D. Wright; 92-43, Sangamon County v. Illinois National Bank of Springfield et al..

Because a Petition for Review was filed, this Administrative Citation will be set for hearing: #92-35, Capitol Bank & Trust Company et al..

This amended Adjusted Standard was accepted by the Board: 91-3, Joint Petition of Peoria Disposal Company and the Illinois Environmental Protection Agency.

Minutes of the May 21, 1992 Board Meeting were approved by a vote of 7-0.

A provisional variance was granted in new case #92-85, LTV Steel Company v. EPA, by a vote of 7-0. (JCM)

The Board then rescheduled its June 25, 1992 meeting to June 23, 1992 and scheduled a Special Board Meeting for Monday, June 15, 1992. The Clerk will post a notice.

All other matters not disposed of as listed were ordered held to June 23, 1992 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 23rd day of June, 1992, by a vote of 1-0.

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

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
JUNE 4, 1992 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ADDENDUM

NEW CASES:

92-85 LTV Steel Company v. EPA (Provisional
Variance) (JCM) _____

NEW ADJUSTED STANDARDS:

92-5 Petition of D & L Landfill, Inc. and D & L
Disposal, Inc. _____

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
JUNE 4, 1992 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

DECISIONS:

- * 88-193 General Motors (BF) (open waiver)

- 90-135 The Grigoleit Company (JA)

- * 91-256 Gallatin National (JA) (due 6/25)

- * 92-22 Warren's Service (GTG) (due)

- * 92-25 Land and Lakes (MN) (due)

- 92-51 People of the State of Illinois v. United Coatings,
Inc. (JCM) (Stip)-----
- R90-1 Toxic Air Contaminants List, Proposed Rule, Second
(A) Notice, Opinion and Order (JCM)

- R90-23 General Motors Corporation Site-Specific, Proposed
Rule, First Notice, Opinion and Order (BF)

- R91-20 Potentially Infectious Medical Waste (PIMW):
Treatment, Storage, and Transfer Facilities, EcIS
Determination Order (RCF)

- R91-13 RCRA Update, USEPA Regulations (January 1, 1991
through June 30, 1991), Post-Adoption Order (JA)

* INDICATES VARIANCE OR PERMIT APPEAL

DECISIONS: (Cont'd)

- R91-28 RACT Amendments: Expansion of Chicago MSA, Proposed Rule, Second Notice, Opinion and Order (RCF) _____
- R91-29 RACT Amendments: Expansion of Metro-East MSA, Dismissal Order RCF) _____
- R91-30 RACT Amendments: Stage II Vapor Recovery, Proposed Rule, Second Notice, Opinion and Order (RCF) _____
- R92-2 UST Update, USEPA Regulations (July 1, 1991 through December 31, 1991), Dismissal Order (JA) _____
- R92-7 Amendments to 35 Ill. Adm. Code 101.103(d) Regarding Recycled Paper, Proposed Rule, First Notice, Opinion and Order (JTM) _____
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AC DECISIONS:

- 92-30 Ray Landers _____
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MOTIONS:

- 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) _____

MOTIONS: (Cont'd)

- AC 91-45 Rochelle Disposal Service - Respondent's motion for leave to file instanter a motion to dismiss (4/6), Repondent'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), Complainant's motion to supplement and reserve ruling (5/15) (Note: the Respondent did not file a motion and argument for summary judgment in this case) (JCM)
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- AC 92-24 White & Brewer Trucking - Respondent's motion to reconsider May 7, 1992 default order (5/26)
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- AS 92-4 Detroit Diesel Corporation et al. - Agency request for extension of time to respond (5/27)
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- 90-146 Village of Matteson - Respondent's motion to hear appeal of Hearing Officer's ruling and to expedite ruling (6/1) (BF)
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- 90-198 Commonwealth Edison Company - Agency status report in response to May 7, 1992 Board Order (5/21) (GTG)
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- 91-49 LTV Steel Company - Petitioner's fifth status report and agreed motion for stay (5/22) (GTG)
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- 91-53 Enamelers and Japanners - Complainant's motion for summary judgment (5/19), Complainant's motion to strike Respondent's answer to first amended complaint (5/26)
-
- 91-75 Community Consolidated School District - Petitioner's status report in response to April 9, 1992 Board Order (BF)
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MOTIONS: (Cont'd)

- 91-83 Village of Lincolnwood - Agency motion for summary judgment (4/27), Petitioner's response to Agency motion for summary judgment and motion for leave to file and supplement the record instanter (5/20) (MN)
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- 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), Petitioner's response to Agency motion for reconsideration (5/12) (MN)
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- 91-174 Enterprise Leasing Company - Agency motion for reconsideration of April 9, 1992 Board Opinion and Order (5/18), Petitioner's response brief to motion for reconsideration (5/28) (JTM)
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- 91-260 Capital Asset Corporation et al. - Petitioner's motion to dismiss (6/2) (BF)
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- 92-1 Russell L. Bacon - Petitioner's motion for rehearing or reconsideration (5/21) (MN)
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- 92-30 Dynamic Hydra-Blasting - Petitioner's motion to dismiss (5/26)
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- 92-40 Waste Hauling - Petitioner's petition to withdraw petition for permit review (5/22)
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- 92-43 Safety-Kleen Corporation - Agency motion to extend time to file record (5/26) (JCM)
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- 92-53 Martin Oil Marketing - Agency motion for summary judgment (5/21), Petitioner's motion to deny Agency motion for summary judgment (5/27), Agency motion for leave to correct printer deletion in Agency's motion for summary judgment (5/28) (JA)
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- 92-67 Escast, Inc. - Respondent's motion to strike (5/29)
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DISCUSSIONS:

- AS 91-7 Decatur Sanitary District (GTG)_____
- AC 91-31 Randall Loveless (JCM)_____
- (A & B)
- AC 91-34 William S. Popejoy, Sr. (RCF)_____
- (A & B)
- * 92-36 City of Lake Forest (JTM) (due 6/25)_____
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NEW CASES:

- 92-74 Kenneth F. Metivier and Cynthia P. Metivier v. Douglas Kenyon, d/b/a Douglas Kenyon, Inc. (See also Respondent's motion to dismiss filed 5/18 and Complainant's response to Respondent's motion to dismiss filed 6/1) (JA)
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- 92-78 Amoco Chemical Company, Amoco Petroleum Additives Company (Wood River Facility) v. EPA (See also Trade Secret Claim Letter) (BF)
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- 92-79 U.S. Department of Energy and The University of Chicago (Argonne National Laboratory) v. EPA (BF)
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- 92-80 Lake County Forest Preserve District v. Neil Ostro, Janet Ostro, and Big Foot Enterprises
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- 92-81 James Lynch v. EPA (GTG)_____
- 92-82 Lawrence Brothers, Inc. v. EPA (Provisional Variance) (JCM)_____
- 92-83 Harlem Township v. EPA_____
- 92-84 People of the State of Illinois v. Berkshire Furniture Company, d/b/a Fashion Bed Group and formerly known as Allegheny Steel and Brass Corporation_____

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)_____
- 92-39 County of Jackson v. Leslie Norman Fred d/b/a Norman Fred Trucking_____
- 92-40 County of Jackson v. David Futrell_____
- 92-41 EPA v. Lakewood Homes & Development Company, Inc. _____
- 92-42 EPA v. Robert D. Wright_____
- 92-43 Sangamon County v. Illinois National Bank of Springfield et al._____

AC APPEALS:

- 92-35 Capitol Bank & Trust Company et al._____

AMENDED ADJUSTED STANDARDS:

- 91-3 Joint Petition of Peoria Disposal Company and the Illinois Environmental Protection Agency (filed 5/29)_____

MINUTES:

May 21, 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)
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 Grigoleit Company (JA)
* 90-143 Ohio Grain Company (GTG) (open waiver)
90-146 Village of Matteson (BF)
90-148 B & M Steel Service Center (GTG)
90-149 Straders Logging & Lumber Mill (GTG)
90-170 Goose Lake Association (JA)
90-182 Ronald E. & Susan Tex (MN)
90-201 David and Margo Dravis (GTG)
AS 91-3 Peoria Disposal (MN)
AS 91-5 Elizabeth Street Foundry (GTG)
AS 91-9 City of East Moline (RCF) (due 1/21)
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 12/17)
* 91-17 B.F. Goodrich Corporation (RCF) (due 8/13)
91-30 Susan Curtis & Marcy Diesing (JCM)
AC 91-31 Randall Loveless (JCM)
AC 91-34(B) William S. Popejoy (JTM)
AC 91-45 Rochelle Disposal Service (JCM)
* 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 Grigoleit Company (JA)
91-193 Park Crematory, Inc. (BF)
91-194 Residents of Cedarville (BF)
* 91-202 Sherex Chemical Company (MN) (due 7/9)
* 91-237 Laidlaw Environmental Services (RCF) (due 9/17)
* 91-238 Laidlaw Environmental Services (RCF) (due 9/17)
* 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)
* 92-23 The Grigoleit Company (JA) (due 12/3)

PENDING CASES ASSIGNED: (Cont'd)

- * 92-28 CSX Transportation, Inc. (MN) (due 8/13)
- * 92-30 Dynamic Hydra-Blasting, Inc. (JA) (open waiver)
- * 92-31 City of Roodhouse (JA) (due 8/13)
- * 92-55 Stephen A. Smith et al. (JTM) (due 8/13)