

**MINUTES OF REGULAR BOARD MEETING
SEPTEMBER 26, 1991 CHICAGO, ILLINOIS**

All Board Members were present.

An Opinion and Order was adopted in #91-60, People of the State of Illinois v. Thomas Steel, by a vote of 5-2. Messrs. J. Dumelle and J. Theodore Meyer dissented. (JCM)

An Opinion and Order was adopted in #91-88, County of Lake, by a vote of 6-1. B. Forcade dissented and J. Dumelle concurred. (RCF)

An Opinion and Order was adopted in ##91-89, -90, Citizens for Controlled Landfills and YMCA of Southwest Illinois, by a vote of 7-0. (JD)

An Opinion and Order was adopted in #91-96, The Ensign Bickford Company, by a vote of 7-0. (JD)

In R91-1, RCRA Update, USEPA Regulations (July 1, 1990 through December 31, 1990), a post-adoption Order was adopted by a vote of 7-0. (JA)

In R91-6, PM₁₀ Portland Cement and Quarries, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. (BF)

An Order determining that an Economic Impact Study need not be prepared at this time, was adopted in R91-18, Repeal of 35 Ill. Adm. Code 809, Subpart I: Hazardous (Infectious) Hospital Waste, by a vote of 7-0. (RCF)

Agency motion for leave to file Brief Instanter in #AC 89-215, Omer Thomas, will be taken with the case-in-chief.

An Order denying a joint motion for continuance and advising the parties that failure to complete all scheduled hearings by November 15, 1991 will subject the matter to dismissal for want of prosecution, was adopted in #88-98, IBP, Inc., by a vote of 7-0. (BF)

An Order remanding the matter to the Agency and closing the docket was adopted in #88-175, Jefferson Smurfit, by a vote of 7-0. (BF)

Agency motion to file Post-Hearing Brief Instanter was granted in #89-106, D & B Refuse Service, by a vote of 7-0. (MN)

An Order directing the parties to file the Stipulation and Settlement Agreement by October 28, 1991 and directing the Hearing Officer to set the matter for hearing on the merits

within 30 days of October 28, 1991 and to conclude all such hearings no later than December 1, 1991 if the parties fail to do so, was adopted in #90-60, Allied-Hastings Barrel, by a vote of 7-0. (JCM)

An Order directing the parties to file the Stipulation and Settlement Agreement by October 28, 1991 and directing the Hearing Officer to set the matter for hearing on the merits within 30 days of October 28, 1991 if the parties fail to do so, was adopted in #90-124, Rock Valley Oil & Chemical, by a vote of 7-0. (JCM)

Petitioner's motion to voluntarily dismiss was granted in #90-188, American Steel & Wire, by a vote of 7-0. (BF)

Petitioner's motion for reconsideration was granted and upon reconsideration the Board affirmed its July 25, 1991 Order dismissing Petitioner's permit appeal in #91-110, Indian Refining Limited Partnership, by a vote of 7-0. (MN)

An Order directing the Clerk of the Board to publish the required newspaper notice that the parties have requested relief from hearing pursuant to Section 31(a)(2) of the Environmental Protection Act as enacted in Public Act 87-1034 effective August 13, 1991, and advising the parties that the Board will reserve ruling on its request after the statutory 21 day notice has passed, was adopted in #91-151, People of the State of Illinois v. United States Department of the Navy, by a vote of 7-0. (JCM)

Agency motion to extend time in which to file its Recommendation was granted until February 1, 1992 in #91-160, General Motors, by a vote of 7-0. (JCM)

Agency motion to extend time in which to file its Recommendation was granted until January 1, 1992 in #91-161, Riverside Laboratories, by a vote of 7-0. (JCM)

By a vote of 7-0, Agency motion to extend the time in which to file its Recommendation was denied since the decision deadline had not been waived. However, in the event a further waiver is received, the Hearing Officer was authorized to grant an extension of the time for filing of the Agency's Recommendation provided that it is received no later than the 90th day prior to the Board's decision deadline in #91-162, Minnesota Mining & Manufacturing Company. (JCM)

Chairman Marlin presented a draft Proposed Rule, Second First Notice, Opinion and Order in R90-1, Toxic Air Contaminants List. Motion to amend by J. Theodore Meyer, seconded by J. Dumelle, failed to carry by a vote of 3-4 with J. Dumelle, B. Forcade and J. Theodore Meyer for it and J. Anderson, R. Flemal, J. Marlin

and M. Nardulli against it. The Proposed Rule, Second First Notice, Opinion and Order was then adopted by a vote of 7-0. Messrs. J. Dumelle and B. Forcade concurred. (JCM)

In R90-20, Diesel Vehicle Exhaust Opacity Limits, an Order determining that an Economic Impact Study need not be prepared, was adopted by a vote of 7-0. (JD)

Agency motion to dismiss or, in the alternative, for summary judgment in #90-31, R. Lavin & Sons, was ordered held to October 10, 1991 for possible consideration.

Complainant's motion for additional relief in #90-108, Joseph and Pamela Stratton, was ordered held to October 10, 1991 for possible consideration.

These cases were discussed and held to October 10, 1991 for further discussion or possible decision: ##91-106, Village of Roxana; 91-109, North Suburban Development; 91-111, Village of Oswego.

In amended petitions these actions were taken by a vote of 7-0: ##91-113, Department of the Army, 120 day decision time clock restarted with its filing, Petitioner directed to file Reference 19 if completed before the close of the record, and held for Agency Recommendation, Order by J.C. Marlin; 91-139, held to October 10, 1991 for possible consideration.

In new case #91-136, Don Bolander v. Monticello Bus Service and Wayne Kruger, Respondent's motion for additional time to respond to the complaint was granted until October 28, 1991, by a vote of 6-1. J. Dumelle dissented. (JCM)

In other new cases these actions were taken by a vote of 7-0: ##91-152, Envirite Corporation v. EPA and Peoria Disposal Company, held to October 10, 1991 for further consideration; 91-153, Clyde R. Dace v. D. Kohlhase, Fire Chief, Fox River Grove Fire Protection District, Respondent, Fox River Grove advised that if the Board is to consider the facts asserted in its motion to dismiss the complaint in this proceeding, an appropriate affidavit must be filed no later than October 7, 1991, Order by R.C. Flemal; 91-154, Carrell and Mary Bates v. Edward E. Brake, Ella F. Brake, Eugene Gale Heiser, d/b/a Heiser Oil and Gas Company and Heiser Oil and Gas Company, accepted for hearing and Clerk of the Board directed to serve the parties with a copy of certain correspondence received from the Agency, which will be placed into the record in this proceeding, Order by J.C. Marlin; 91-171, Monsanto Company v. EPA, accepted for hearing, Order by B. Forcade; 91-172, John Plosila v. Bandito Barney's, First American Bank (Wallace Trust No. 89-008) and Thom McNamee, held for duplicitous/frivolous determination; 91-173, Marathon Oil Company v. EPA, accepted for hearing, Order by B. Forcade;

91-174, Chicago Heights Enterprise Leasing Company v. EPA, accepted for hearing, Order by B. Forcade; 91-175, Ball Corporation, Ball Metal Decorating and Service Division v. EPA, accepted for hearing, Order by B. Forcade; 91-176, M & D Flexographic Printers, Inc. v. EPA, accepted for hearing, Order by B. Forcade; 91-177, DeKalb Sanitary District v. EPA, provisional variance granted, Messrs. J. Dumelle and B. Forcade concurred, Order by J.C. Marlin; 91-178, Commonwealth Edison Company v. EPA, accepted for hearing, Order by B. Forcade; 91-179, Commonwealth Edison Company v. EPA, accepted for hearing, Order by B. Forcade; 91-180, Commonwealth Edison Company v. EPA, accepted for hearing, Order by B. Forcade; 91-181, Material Service Corporation and City of Georgetown v. EPA, provisional variance granted, J. Dumelle concurred, Order by J.C. Marlin.

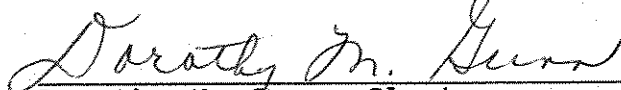
These Administrative Citations were received by the Board:
##91-41, James Womack; 91-42, Joe Hammel; 91-43, Fred Massat;
91-44, Vance Eaton.

Agency motion to file Recommendation Instanter and Petitioner's motion for leave to file response to Agency Recommendation was granted in #AS 91-1, Keystone Steel & Wire Company, by a vote of 7-0. (JA)

Minutes of the September 12, 1991 Board Meeting were approved by a vote of 7-0.

All other matters not disposed of as listed were ordered held to October 10, 1991 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 10th day of October, 1991, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
SEPTEMBER 26, 1991 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

DECISIONS:

- 90-112 Chicago Heights Refuse Depot (RCF)

- 91-60 People of the State of Illinois v. Thomas Steel (JCM)
(Stip)-----
- * 91-88 County of Lake (RCF)(due)

- * 91-89) Citizens for Controlled Landfills (JD)(due)
91-90)-----
- * 91-96 The Ensign Bickford Company (JD)(due 10/10)

- * 91-107 Village of Oak Brook (MN)(due 10/10)

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

- R90-20 Diesel Vehicle Exhaust Opacity Limits, EcIS
Determination Order (JD)-----
- R91-1 RCRA Update, USEPA Regulations (July 1, 1990 through
December 31, 1990), Post-Adoption Order (JA)

- R91-6 PM₁₀ Portland Cement and Quarries, Adopted Rule, Final
Order, Opinion and Order (BF)

- R91-18 Repeal of 35 Ill. Adm. Code 809, Subpart I: Hazardous
(Infectious) Hospital Waste, EcIS Determination Order
(RCF)-----

* INDICATES VARIANCE OR PERMIT APPEAL

AC MOTIONS:

89-215 Omer Thomas - Agency motion for leave to file Brief Instanter (9/16) (Note: this motion will be taken with the case-in-chief) (BF)

MOTIONS:

88-98 IBP, Inc. - joint motion for continuance (9/25) (BF)

88-175 Jefferson Smurfit - joint motion for agreed Order (9/6) (BF)

88-188 Shell Oil Company - Petitioner's motion to modify November 29, 1990 Board Order (9/17) (JD)

89-106 D & B Refuse Service - Agency motion to file Post-Hearing Brief Instanter (9/13) (MN)

90-31 R. Lavin & Sons - Agency motion to dismiss or, in the alternative, for summary judgment (9/11), Petitioner's response to Agency motion to dismiss and for summary judgment (9/18) (JCM)

90-60 Allied-Hastings Barrel - Board Order (JCM)

90-108 Little Caesar's Pizza - Complainant's motion for additional relief (8/12) (JD)

90-124 Rock Valley Oil & Chemical - Board Order (JCM)

90-188 American Steel & Wire - Petitioner's motion to voluntarily dismiss (9/17) (BF)

91-50 Karl & Helen Christ - Respondent's motion to enforce discovery, motion for attorney fees, and motion to continue hearing date (9/12)

91-110 Indian Refining - Petitioner's motion for reconsideration of July 25, 1991 Board Order (8/29) (MN)

MOTIONS: (Cont'd)

- 91-112 Williamson Adhesives - Petitioner's motion for reconsideration of August 22, 1991 Board Order (9/18) (MN) _____
- 91-142 Broadwell Grain Elevator - Board Order (JCM) _____
- 91-151 Dept. of the Navy - agreed motion to request relief from hearing requirement (9/24)(JCM) _____
- 91-160 General Motors - Agency motion to extend time in which to file Agency Recommendation (9/23)(JCM) _____
- 91-161 Riverside Laboratories - Agency motion to extend time in which to file Agency Recommendation (9/23)(JCM) _____
- 91-162 Minnesota Mining & Manufacturing - Objection (9/16), Objection (9/18), Agency motion to extend time in which to file Agency Recommendation (9/23)(JCM) _____
- 91-163 Clinton County Oil - Agency motion to dismiss (9/18) _____

DISCUSSIONS:

- * 91-106 Village of Roxana (MN)(due 10/10) _____
- * 91-109 North Suburban Development (JA)(due 10/10) _____
- * 91-111 Village of Oswego (JCM)(due 10/24) _____

AMENDED PETITIONS:

- 91-113 Dept. of the Army (filed 9/18) _____
- 91-139 R. Lavin & Sons (filed 9/23)(See also Agency Memorandum in response to August 22, 1991 Board Order filed 9/24) _____

NEW CASES:

- 91-136 Don Bolander v. Monticello Bus Service, Wayne Kruger, President (See also Respondent's motion for additional time to respond filed 8/22)_____
- 91-152 Envirite Corporation v. EPA and Peoria Disposal Company (See also Respondent Peoria Disposal Company's motion for extension of time to file its motion to dismiss filed 9/6; motion to dismiss or in the alternative motion for summary judgment and supporting Memorandum of law filed 9/10 and Complainant's motion for an extension of time filed 9/23 and Agency motion to dismiss or in the alternative motion for summary judgment (9/24)_____
- 91-153 Clyde R. Dace v. D. Kohlhase, Fire Chief, Fox River Grove Fire Protection District (See also Fox River Grove Fire Protection District's motion to dismiss complaint filed 9/16)_____
- 91-154 Carrell and Mary Bates v. Edward E. Brake; Ella F. Brake; Eugene Gale Heiser d/b/a Heiser Oil & Gas Company and Heiser Oil & Gas Company _____
- 91-171 Monsanto Company v. EPA (BF) _____
- 91-172 John Plosila v. Bandito Barney's, First American Bank (Wallace Trust No. 89-008) and Thom McNamee _____
- 91-173 Marathon Oil Company v. EPA (BF) _____
- 91-174 Chicago Heights Enterprise Leasing Company v. EPA _____
- 91-175 Ball Corporation, Ball Metal Decorating and Service Division v. EPA (BF)_____
- 91-176 M & D Flexographic Printers, Inc. v. EPA (BF) _____
- 91-177 DeKalb Sanitary District v. EPA (Provisional Variance) (JCM)_____
- 91-178 Commonwealth Edison Company v. EPA _____
- 91-179 Commonwealth Edison Company v. EPA _____

NEW CASES: (Cont'd)

91-180 Commonwealth Edison Company v. EPA

NEW AC CASES:

91-41 James Womack

91-42 Joe Hammel

91-43 Fred Massat

91-44 Vance Eaton

ADJUSTED STANDARDS MOTIONS:

91-1 Keystone Steel & Wire Company - Agency motion to file Recommendation Instantly (9/16), Petitioner's motion for leave to file response to Agency Recommendation (9/23) (JA)

MINUTES:

September 12, 1991

PENDING CASES ASSIGNED:

85-95 Citizens Utilities (Remand)(JA)
 85-140 Citizens Utilities Company (MN)
 * 85-166 Citizens Utilities (JTM)(open waiver)
 86-1 City of Peru CSO (JTM)
 86-2 City of LaSalle CSO (JTM)
 86-3 City of Oglesby CSO (JA)
 86-4 City of Morris CSO (JD)
 86-160 Fitz-Mar, Inc. (JA)
 86-161 Elizabeth Street Foundry (JD)
 * 87-131 Amerock Corporation (JTM)(open waiver)
 AS 88-2 Stepan Company (JCM)
 AC 88-62 City of Chicago (JCM)
 88-98 IBP, Inc. (Remand)(BF)
 * 88-193 General Motors Corporation (JD)(open waiver)
 * 89-106 D & B Refuse Service (MN)(due 10/24)
 89-158 Gilbertson Clybourn (BF)
 * 89-171 Pekin Energy Company (JD)(open waiver)
 89-177 CWM Chemical Services (JTM)(open waiver)
 AC 89-215 Omer Thomas (BF)
 AS 90-8 Olin Corporation (JA)
 AC 90-26(B) ESG Watts (JCM)
 90-59 Michael L. Christianson (MN)
 90-60 Allied Hastings Barrel & Drum Company (JCM)
 AC 90-64(B) Louis Mund (BF)
 AC 90-65(B) Arthur Fields (BF)
 AC 90-66(B) Sandra Petroff (BF)
 AC 90-67(B) Timothy Doctor (BF)
 AC 90-91 Bernard Leitschuh (BF)
 90-124 Rock Valley Oil Company (JCM)
 90-135 The Grigoleit Company (BF)
 * 90-136 Walter J. and Marlene J. Maquet (BF)(open waiver)
 90-140 G & K Investments (BF)
 90-146 Village of Matteson (BF)
 90-148 B & M Steel Service Center (MN)
 90-149 Straders Logging and Lumber Mill (MN)
 * 90-168 Williamson Adhesives (BF)(open waiver)
 * 90-227 DMI, Inc. (RCF)(open waiver)
 AS 91-1 Keystone Steel & Wire (JA)
 * 91-2 Olin Corporation (JCM)(due 12/19)
 AS 91-3 Peoria Disposal Company (JD)
 AC 91-17(B) Ronald Feldman (JCM)
 * 91-29 Commonwealth Edison (RCF)(open waiver)
 * 91-75 Community Consol. School Dist. No. 15 (BF)(open waiver)
 * 91-80 Paul Rosman (JD)(due 10/24)
 * 91-83 Indian Refining Limited Partnership (MN)(due 1/9)
 * 91-86 Raymond D. and Mary Moore (JA)(due 1/9)
 * 91-108 Israel-Gerold's (JTM)(due 2/6)
 * 91-119 White County Board (JD)(due 12/19)
 * 91-120 Beer Motors (JTM)(due 11/7)
 * 91-121 Village of Channahon (JA)(due 11/7)
 91-129 City of Bloomington (JCM)
 * 91-131 Salvation Army (MN)(due 11/21)

PENDING CASES ASSIGNED: (Cont'd)

- * 91-133 Lawrence Cadillac (JCM)(due 12/19)
- * 91-135 Village of Bloomingdale (JTM)(due 11/21)
- * 91-138 Kronon Motor Sales (RCF)(2/27)
- 91-142 Broadwell Grain Elevator (JCM)