

**MINUTES OF REGULAR BOARD MEETING  
DECEMBER 19, 1991 CHICAGO, ILLINOIS**

All Board Members were present.

An Opinion and Order was adopted in #AC 90-91(B), Bernard Leitschuh, by a vote of 7-0. (BF)

An Opinion and Order was adopted in #90-227, DMI, Inc., by a vote of 7-0. J. Dumelle concurred. (RCF)

An Opinion and Order was adopted in #91-80, Paul Rosman, by a vote of 7-0. J. Anderson and B. Forcade concurred. (JD)

An Opinion and Order was adopted in #91-188, Village of Lake Zurich, by a vote of 5-2. Messrs. J. Dumelle and B. Forcade dissented. (JCM)

In R90-9(B), Used and Waste Tire Regulations, a Proposed Rule, Second Notice, Opinion and Order was adopted by a vote of 7-0. (JCM)

In R90-20, Diesel Exhaust Opacity Limits, a Proposed Rule, Second Notice, Supplemental Opinion and Order was adopted by a vote of 6-1. R.C. Flemal dissented. (JD)(Thereafter Chairman Marlin had to leave the meeting due to a medical emergency and the meeting was then chaired by Board Member J. Anderson)

An Opinion in support of a previously entered Order in #91-109, North Suburban Development, was adopted by a vote of 4-2. J. Anderson and M. Nardulli dissented. (BF)

In R90-8, Amendments to Permit Appeal Procedural Rules, a Proposed Rule, Second First Notice, Opinion and Order was discussed and ordered held to January 9, 1992 for further consideration.

In R91-12, USX Corporation RCRA Delisting, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 6-0. (JA)

In R91-13, RCRA Update, USEPA Regulations (January 1, 1991 through June 30, 1991), a Proposal for Public Comment, Proposed Opinion and Order was adopted by a vote of 6-0. (JA)

In R91-18, Repeal of 35 Ill. Adm. Code 809, Subpart I: Hazardous (Infectious) Hospital Waste, an Adopted Rule, Final Opinion and Order was adopted by a vote of 6-0. (RCF)

In R91-35, PM<sub>10</sub> Ambient Limits and Episode Regulations, a Proposed Rule, First Notice, Opinion and Order was adopted by a vote of 6-0. (BF)

A Default Order was adopted in this Administrative Citation by a vote of 6-0: #AC 91-48, Dennis Fults. (Due to Board Member J. Theodore Meyer's absence from the meeting at this point, the meeting resumed with case discussions)

This case was discussed and held to January 9, 1992 for further discussion or possible decision: #91-173, Marathon Oil Company.

This regulatory matter was discussed and held to January 9, 1992 for further discussion or possible decision: R91-9, DMI Site-Specific, Proposed Rule, Second Notice, Opinion and Order.

These Administrative Citations were received by the Board: #91-53, Clara L. Franklin; 91-54, Lincoln/Logan Landfill; 91-55, Vernon Abert.

In amended petitions these actions were taken by a vote of 6-0: #91-119, White County Board, held for agency recommendation; 91-212, O'Brien Tire and Battery Service, ordered held to January 9, 1992 for further consideration.

By a vote of 6-0, Petitioner's motion for reconsideration of an October 24, 1991 Order in #89-106, D&B Refuse Service, was granted and upon reconsideration the Board denied the relief requested. (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 #89-180, People of the State of Illinois v. Colwell/General, Inc., by a vote of 6-0. (JA)

Petitioner's motion for substitution of counsel was granted in #90-31, R. Lavin & Sons, by a vote of 6-0. (RCF)

Petitioner's motion for substitution of counsel was granted in #91-139, R. Lavin & Sons by a vote of 6-0. (JA)

An Order directing the parties to file a status report on or before February 10, 1992 was adopted in #91-140, Waste Management of Illinois, by a vote of 6-0. (JA)

Agency motion for a second extension of time in which to file its recommendation was granted until April 1, 1992 in #91-149, Minnesota Mining & Manufacturing, by a vote of 6-0. (JA)

By a vote of 6-0, Agency motion to dismiss was granted, Peoria Disposal Company's motion to dismiss was denied but its motion for summary judgment was granted, and Complainant's cross-motion

for summary judgment was denied in #91-152, Envirite Corporation. (MN)

Petitioner's voluntary motion to withdraw was granted in #91-190, State Bank of Whittington, by a vote of 6-0. (RCF)

By a vote of 6-0, the Board waived the 10-day period for publication set forth in Section 104.140(b) of the Board's procedural rules, granted the Agency's motion for extension of time in which to publish notice and to extend the period for filing objections to the variance to 21 days from the date of publication in #91-215, Land and Lakes Company. (MN)

By a vote of 6-0, the Board waived the 10-day period for publication set forth in Section 104.140(b) of the Board's procedural rules, granted the Agency's motion for extension of time in which to publish notice and to extend the period for filing objections to the variance to 21 days from the date of publication in #91-216, Land and Lakes Company. (MN)

By a vote of 6-0, the Board waived the 10-day period for publication set forth in Section 104.140(b) of the Board's procedural rules, granted the Agency's motion for extension of time in which to publish notice and to extend the period for filing objections to the variance to 21 days from the date of publication in #91-217, Land and Lakes Company. (MN)

By a vote of 6-0, the Board waived the 10-day period for publication set forth in Section 104.140(b) of the Board's procedural rules, granted the Agency's motion for extension of time in which to publish notice and to extend the period for filing objections to the variance to 21 days from the date of publication in #91-218, Land and Lakes Company. (MN)

Respondent's motion for extension of time to file the county record was granted until January 6, 1992 in #91-223, Waste Hauling, Inc., by a vote of 6-0. (JTM)

By a vote of 6-0, Agency motion for additional time to file a response to Halogenated Solvent Industry Alliance's request to reconsider the listing of tetrachloroethylene and trichloroethylene as toxic air contaminants was granted until December 20, 1991; the Board pointed out to Halogenated Solvent Industry Alliance that its motion to separate the consideration of environmental effects from the rulemaking has already been done in subdocket R90-1(B), and that its motion was ill-founded and is therefore denied; and the Board reserved its decision regarding participants' request that an EcIS be prepared in subdocket R90-1(C), until a later date in R90-1(A, B, C), Toxic Air Contaminants List. (JA)

Petitioner's motion to incorporate the record from variance

proceeding PCB 91-173 was granted and Petitioner was instructed to provide four copies of the material to be incorporated to the Clerk of the Board in R91-23, Marathon Oil Company Site-Specific, by a vote of 6-0. (MN)

Agency motion to amend the proposal in R91-35, PM-10 Ambient Limits and Episode Regulations, was handled under the Decision Agenda.

Petitioner's motion for substitution of counsel was granted in #AS 90-5, R. Lavin & Sons, by a vote of 6-0. (JA)

In new cases these actions were taken by a vote of 6-0:  
##91-243, Smith Oil Company of Kankakee v. EPA, accepted for hearing, Order by B. Forcade; 91-244, Dakota K. Enterprises, Inc. v. EPA, accepted for hearing, Order by B. Forcade; 91-245, B & W Cartage Company, Inc. v. EPA, accepted for hearing, Order by B. Forcade; 91-246, City of Joliet v. EPA, held for agency recommendation; 91-247, Allied-Signal, Inc. v. EPA, provisional variance granted, J. Dumelle and B. Forcade concurred, Order by J. Anderson; 91-248, Amoco Oil Company v. EPA, provisional variance granted, J. Dumelle and B. Forcade concurred, Order by J. Anderson; 91-249, People of the State of Illinois v. Custom Tapes, Inc., Clerk of the Board directed 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 parties' advised that the Board will reserve ruling on its request after the statutory 21 day notice has passed, Order by J. Anderson; 91-250, Pekin Energy Company v. EPA, accepted for hearing, Order by B. Forcade.

Minutes of the December 6, 1991 Board Meeting were approved by a vote of 6-0.

All other matters not disposed of as listed were ordered held to January 9, 1992 for possible consideration.

Since this was Mr. Dumelle's last meeting before retiring, a Resolution from the Board was read and presented to him by J. Anderson.

Other congratulatory comments were presented by: Matthew Dunn, Chief, Environmental Control Division, Illinois Attorney General's Office (also presented a letter and plaque from Attorney General, Roland Burris); former Board Assistants to Mr. Dumelle, Roy M. Harsch and Daniel Siegfried, and Joseph Wright.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 7<sup>th</sup> day of January, 1992, by a vote of 6-0.

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

ILLINOIS POLLUTION CONTROL BOARD  
FINAL AGENDA  
DECEMBER 19, 1991 CHICAGO, ILLINOIS  
CONFERENCE ROOM 9-040  
10:30 A.M.

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NEW CASES:

91-250 Pekin Energy Company v. EPA

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ILLINOIS POLLUTION CONTROL BOARD  
FINAL AGENDA  
DECEMBER 19, 1991 CHICAGO, ILLINOIS  
CONFERENCE ROOM 9-040  
10:30 A.M.

DECISIONS:

- AC 90-91 Bernard Leitschuh (BF) \_\_\_\_\_  
(B)
- \* 90-227 DMI, Inc. (RCF)(open waiver)  
\_\_\_\_\_
- \* 91-80 Paul Rosman (JD)(due) \_\_\_\_\_
- \* 91-109 North Suburban Development, Opinion only (Order adopted  
12/6)(BF)  
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- \* 91-188 Village of Lake Zurich (JCM)(due 1/23)  
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- R90-8 Amendments to Permit Appeal Procedural Rules, Proposed  
Rule, Second First Notice, Opinion and Order (BF)  
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- R90-9 Used and Waste Tire Regulations, Proposed Rule, Second  
(B) Notice, Opinion and Order (JCM)  
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- R90-20 Diesel Exhaust Opacity Limits, Proposed Rule, Second  
Notice, Supplemental Opinion and Order (JD)  
\_\_\_\_\_
- R91-12 USX Corporation RCRA Delisting, Adopted Rule, Final  
Order, Opinion and Order (JA)  
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- R91-13 RCRA Update, USEPA Regulations (January 1, 1991 through  
June 30, 1991), Proposal for Public Comment, Proposed  
Opinion and Order (JA) \_\_\_\_\_
- R91-18 Repeal of 35 Ill. Adm. Code 809, Subpart I: Hazardous  
(Infectious) Hospital Waste, Adopted Rule, Final Opinion  
and Order (RCF) \_\_\_\_\_

\* INDICATES VARIANCE OR PERMIT APPEAL

DECISIONS: (Cont'd)

R91-35 PM<sub>10</sub> Ambient Limits and Episode Regulations, Proposed Rule, First Notice, Opinion and Order (See Motions) (BF)

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AC DECISIONS:

91-48 Dennis Fults

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AC MOTIONS:

91-38 Danny W. Mains - Agency motion to strike Petition for Review, vacate Hearing Officer Scheduling Order and adopt Default Order (12/13)

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91-40 Curtis Newlan - Respondent's motion to vacate October 24, 1991 Default Order (See Respondent's letter filed 11/12)(JCM)

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MOTIONS:

85-212 Village of Morton - Petitioner's motion to modify May 9, 1986 Board Order (11/27)(RCF)

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86-4 The City of Morris - Petitioner's motion to modify condition #4 of the Board's April 7, 1988 Order (12/2)(JD)

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89-106 D & B Refuse Service - Petitioner's motion for reconsideration of October 24, 1991 Order (12/2), Agency motion to extend time to file response to Petitioner's motion for reconsideration (12/11), Agency response to Petitioner's motion for reconsideration (12/17)(MN)

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89-180 Colwell/General, Inc. - agreed motion to request relief from hearing requirement (12/17)(JCM)

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90-31 R. Lavin & Sons - Petitioner's motion for substitution of counsel (12/10)(RCF)

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MOTIONS: (Cont'd)

- 91-138 Kronon Motor Sales - Agency motion for summary judgment (11/25), Petitioner's cross-motion for summary judgment and memorandum in support of cross-motion for summary judgment (12/10)(RCF)
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- 91-139 R. Lavin & Sons - Petitioner's motion for substitution of counsel (12/10)(JCM)
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- 91-140 Waste Management - Status Report Board Order (JCM)
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- 91-149 Minnesota Mining & Manufacturing - Agency second motion for extension of time in which to file recommendation (12/12)
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- 91-152 Envirite Corporation - Peoria Disposal Company's motion to dismiss, or in the alternative, motion for summary judgment and supporting memorandum of law (9/10), Agency motion to dismiss, or in the alternative, motion for summary judgment (9/24), Complainant's consolidated response and cross motion for summary judgment and memorandum in support of cross motion for summary judgment and in opposition to Respondents' motions (10/7), Respondents' joint memorandum in opposition to Petitioner's cross-motion for summary judgment (11/12), Petitioner's motion to strike, or in the alternative, for leave to file instanter its reply Brief (11/27), Respondent Peoria Disposal Company's response to Petitioner's motion to strike, or in the alternative, for leave to file reply instanter (12/9)(MN)
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- 91-156 Gallatin National Company - Petitioner's motion for summary judgment and memorandum in support of its motion for summary judgment (11/15), Agency response to Petitioner's motion for summary judgment and motion for summary judgment (11/25), Petitioner's response to Agency's motion for summary judgment (12/4)(JA)
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- 91-190 State Bank of Whittington - Petitioner's voluntary motion to withdraw petition for review (12/18)(RCF)
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- 91-192 Prairie Material Sales - Respondent's answer to complaint and motion for summary judgment (12/9), Agency motion for leave to file response to Respondent's motion for summary judgment (12/16)
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MOTIONS: (Cont'd)

- 91-212 O'Brien Tire and Battery - Agency motion to dismiss (11/19), Petitioner's response to Agency motion to dismiss (12/18)
- 91-215 Land and Lakes - Agency motion to extend time to publish notice (11/25), Objection (12/18)(MN)
- 91-216 Land and Lakes - Agency motion to extend time to publish notice (11/25)(MN)
- 91-217 Land and Lakes - Agency motion to extend time to publish notice (11/25), Objection (12/12)(MN)
- 91-218 Land and Lakes - Agency motion to extend time to publish notice (11/25)(MN)
- 91-223 Waste Hauling, Inc. - Respondent's motion for extension of filing time instanter (12/10)(JTM)
- R90-1 Toxic Air Contaminants List - Halogenated Solvents Industry Alliance's motion to separate the consideration of environmental effects from this rulemaking (12/2), Halogenated Solvents Industry Alliance's motion to reconsider listing of tetrachloroethylene and trichloroethylene as toxic air contaminants (12/2), response of the Illinois Chapter of the Sierra Club to the HSIA's motions to separate consideration of environmental effects and reconsider the listing of tetrachloroethylene and trichloroethylene (12/5), Agency motion for extension of time to answer motion to delist (12/9), Illinois Steel Group's motion for an Economic Impact Statement (12/12), Department of Energy and Natural Resources response to Halogenated Solvents Industry Alliance's motion to separate the consideration of environmental effects from this rulemaking (12/16)(JCM)
- R91-23 Marathon Oil Company Site-Specific - Petitioner's motion to incorporate record (12/2)(MN)
- R91-35 PM<sub>10</sub> Ambient Limits and Episode Regulations - Agency motion to amend proposal (12/13)(See Decisions) (BF)

ADJUSTED STANDARDS MOTIONS:

90-5        R. Lavin & Sons - Petitioner's motion for substitution  
of counsel (12/10)(JCM) \_\_\_\_\_

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DISCUSSIONS:

\* 91-173     Marathon Oil Company (RCF)(due 1/9) \_\_\_\_\_

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REGULATORY DISCUSSIONS:

R91-9       DMI Site-Specific, Proposed Rule, Second Notice, Opinion  
and Order (MN) \_\_\_\_\_

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AMENDED PETITIONS:

91-119     White County Board (filed 12/09)(JCM)

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91-212     O'Brien Tire and Battery Service (filed 12/18)

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NEW CASES:

91-243     Smith Oil Company of Kankakee v. EPA (BF)

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91-244     Dakota K. Enterprises, Inc. v. EPA

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91-245     B & W Cartage Company, Inc. v. EPA (BF)

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91-246     City of Joliet v. EPA

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91-247     Allied-Signal, Inc. v. EPA (Provisional Variance)(JCM)

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91-248     Amoco Oil Company v. EPA (Provisional Variance)(JCM)

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91-249     People of the State of Illinois v. Custom Tapes, Inc.  
(See also motion to request relief from hearing  
requirement filed 12/17)(JCM)

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NEW AC CASES:

91-53 Clara L. Franklin \_\_\_\_\_

91-54 Lincoln/Logan Landfill \_\_\_\_\_

91-55 Vernon Abert \_\_\_\_\_

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MINUTES:

December 6, 1991 \_\_\_\_\_

PENDING CASES ASSIGNED:

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)  
 88-98 IBP, Inc. (Appellate Court Remand)(BF)  
 \* 88-193 General Motors (BF)(open waiver)  
 89-44) Moline Corporation (BF)  
 89-87)  
 89-158 Gilbertson Clybourn (BF)  
 89-169 John & Jean Zarlenga (JA)  
 \* 89-171 Pekin Energy Company (JD)(open waiver)  
 89-177 CWM Chemical Services (JTM)(open waiver)  
 AC 89-215 Omer Thomas (BF)  
 AC 89-224 John Vander (MN)(Appellate Court Remand)  
 \* 90-31 R. Lavin & Sons, Inc. (RCF)(due 12/31/92)  
 90-108 Joseph B. & Pamela J. Stratton (JTM)  
 90-135 The Grigoleit Company (BF)  
 90-146 Village of Matteson (BF)  
 90-148 B & M Steel Service Center (MN)  
 90-149 Straders Logging and Lumber Mill (MN)  
 90-200 Vito Zivoli (JCM)  
 \* 91-17 B.F. Goodrich Corporation (RCF)(due 3/12)  
 91-30 Susan Curtis & Marcy Diesing (JCM)  
 AC 91-31 Randall Loveless (JCM)  
 AC 91-34 William S. Popejoy (JD)  
 91-48 Wonder View Improvement Assn. (RCF)  
 \* 91-75 Community Consol. School Dist. No. 15 (BF)(open waiver)  
 \* 91-83 Village of Lincolnwood (MN)(open waiver)  
 \* 91-86 Raymond D. and Mary Moore (JA)(due 5/7)  
 \* 91-108 Israel-Gerold's (JTM)(due 6/8)  
 \* 91-113 Dept. of the Army (BF)(open waiver)  
 \* 91-118 City of Braidwood (MN)(due 2/6)  
 \* 91-120 Beer Motors (JTM)(due 1/23)  
 \* 91-121 Village of Channahon (JA)(due 1/23)  
 \* 91-126 City of Knoxville (JCM)(due 1/23)  
 91-129 City of Bloomington (JCM)  
 \* 91-133 Lawrence Cadillac (JCM)(due 2/6)  
 \* 91-138 Kronon Motor Sales (RCF)(4/23)  
 91-146 James W. Turner, Sr. (RCF)  
 91-147 James W. Turner, Sr. (RCF)  
 91-148 James W. Turner, Sr. (RCF)  
 91-152 Envirite Corporation (MN)  
 \* 91-156 Gallatin National Company (JA)(due 2/6)  
 91-157 The Grigoleit Company (JA)  
 \* 91-163 Clinton County Oil (MN)(due 3/12)  
 \* 91-190 State Bank of Whittington (RCF)(open waiver)  
 \* 91-215 Land and Lakes Company (MN)(due 2/27)

PENDING CASES ASSIGNED: (Cont'd)

- \* 91-216 Land and Lakes Company (MN)(due 2/27)
- \* 91-217 Land and Lakes Company (MN)(due 2/27)
- \* 91-218 Land and Lakes Company (MN)(due 2/27)
- \* 91-223 Waste Hauling, Inc. (JTM)(due 3/12)
- \* 91-224 5027 Corporation (BF)(due 3/12)