ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING AUGUST 21, 1997 CHICAGO, ILLINOIS - 10:30 A.M.

After calling the meeting to order, Board Member Ronald C. Flemal welcomed members of the public and staff. The Assistant Clerk of the Board was asked for a roll call and all Board Members answered present except Chairman Claire A. Manning, who was absent.

Minutes of the July 24, 1997 Board Meeting were approved by a vote of 4-0. Chairman Claire A. Manning and Board Members R.C. Flemal and M. McFawn abstained.

In R97-15(B), Livestock Waste Regulations, 35 Ill. Adm. Code 506 an order accepting for hearing the Department of Agriculture's July 22, 1997 regulatory proposal, and accepting the Agency's proposal filed on July 2, 1997 as a public comment, was adopted by a vote of 6-0. (McF)

In R98-9, Municipal Solid Waste Landfill (MSWLF) Rules: Amendments to 35 Ill. Adm. Code 811, 813, and 848, the Board accepted the proposal for hearing, denied proponents' motion to waive the 200 signature requirement as unnecessary, granted in part proponents' motion to limit the scope of this proceeding, and added proposed amendments to 35 Ill. Adm. Code 848.104, Definitions, by a vote of 6-0. (GTG)(CAM)(McF)

The Board will take the joint motion for proposed adjusted standard and expedited decision with the case in AS 98-1, Petition of Carus Chemical Company for an Adjusted Standard from 35 Ill. Adm. Code Part 814, Subpart D. (GTG)

An Opinion and Order granting the joint motion requesting relief from the Illinois Environmental Protection Act's hearing requirement and accepting the Stipulation and Settlement Agreement in the amount of \$5,000, was adopted in #97-231, People of the State of Illinois v. Graftek Press, Inc., by a vote of 6-0. (JTM)

A Default Order finding the respondent violated Sections 21(p)(1) and (p)(4) of the Illinois Environmental Protection Act and assessing a \$1,000 penalty, was adopted in AC 98-1, County of Will v. Edward Fogarty, by a vote of 6-0. (RCF)

Petitions for review of Administrative Citations ##AC 98-2, IEPA v. Frank A. Olson and AC 98-6, IEPA v. R. Frietsch & Company, Inc., were accepted for hearing by the Board.

The following new Administrative Citations were accepted by the Board: AC 98-6, County of Will v. William Hunter; AC 98-9, County of Vermilion v. Emery Johnson; AC 98-10, County of Vermilion v. Darrell Grant.

An Order granting the petitioner's motion to dismiss and closing the docket was adopted in #94-284, Illico Independent Oil Company v. IEPA, by a vote of 6-0. **(KMH)**

An Interim Opinion and Order granting to the complainant partial summary judgment, finding Electronic Interconnect Corporation violated Sections 21(a), (e) and (f) of the Illinois Environmental Protection Act (Act), ordering Electronic Interconnect Corporation to cease and desist from violations of the Act and to complete remediation at the site by December 31, 1997, and stating that the Board will address the appropriate civil penalty, if any, after site remediation is completed, was adopted in # 95-143, Gordon Krautsack v. Bhogilal Patel, an individual, Subhash Patel, an individual, and Electronic Interconnect, Inc., by a vote of 6-0. (RCF)

An Order granting the petitioner's motion to dismiss and closing the docket, was adopted in #96-57, Laidlaw Waste Systems, Inc. v. IEPA, by a vote of 6-0. (RCF)

An Order, on the Board's own motion, directing the parties in #96-180 to file copies with the Clerk of the Board of any document which either may file with the court in White & Brewer Trucking, Inc. v. Donley et al., No. 95-3224 (C.D. Ill.) or any order entered by the court was adopted in #96-180, Environmental Site Developers, Inc. v. White & Brewer Trucking, Inc., consolidated with #97-11, People of the State of Illinois v. White & Brewer Trucking, by a vote of 5-1. Board Member K.M. Hennessey abstained. (McF)

An Order granting the petitioner's motion to dismiss and closing the docket was adopted in #96-192, Laidlaw Waste Systems, Inc. v. IEPA, by a vote of 6-0. (RCF)

An Order granting the petitioner's motion to dismiss and closing the docket was adopted in #97-88, Laidlaw Waste Systems, Inc. v. IEPA, by a vote of 6-0. (RCF)

An Order denying respondents' motion to strike with the exception of the request for attorney fees which the Board struck, finding the complaint to be neither duplications nor frivolous, and accepting the matter for hearing was adopted in #97-134, Dayton Hudson Corporation v. Cardinal Industries, Inc. and Daniel E. Cardinal, Jr., by a vote of 5-1. Board Member R.C. Flemal dissented. (GTG)

An Order granting the petitioner's motion to dismiss and closing the docket was adopted in #97-144, Laidlaw Waste Systems, Inc. v. IEPA, by a vote of 6-0. (GTG)

An Order granting the parties' agreed motion to extend the stay of proceedings through and including October 14, 1997 was adopted in #97-168, People of the State of Illinois v. Old Word Industries, Inc. and Specialty Sealant Tapes, Inc., by a vote of 6-0. (RCF)

An Opinion and Order granting the complainant's motion for summary judgment, finding that the respondent violated Section 25b-2 of the Illinois Environmental Protection Act (Act), and ordering the respondent to pay a civil penalty in the sum of \$17,400 was

adopted in #97-175, People of the State of Illinois v. Circuit International, Inc., by a vote of 6-0. Board Member M. McFawn concurred. (RCF)

An Opinion and Order granting the complainant's motion for summary judgment, finding that the respondent violated Section 25b-2 of the Illinois Environmental Protection Act (Act) and ordering the respondent to pay a civil penalty in the sum of \$60,200 was adopted in #97-177, People of the State of Illinois v. ESS L.P., by a vote of 6-0. Board Member M. McFawn concurred. (RCF)

An Order granting complainant's motion to strike Midwest Grain's affirmative defenses as to the second and fourth affirmative defenses, and denying complainant's motion to strike as to Midwest Grain's first and third affirmative defenses was adopted in #97-179, People of the State of Illinois v. Midwest Grain Products of Illinois, Inc., by a vote of 6-0. (McF)

The respondent's agreed motion for extension of time to plead was referred to the hearing officer for disposition in #97-217, People of the State of Illinois v. Bigelow Group, Inc.. (McF)

An Order dismissing the docket, was adopted in #97-224, Emro Marketing Company v. IEPA, by a vote of 6-0. (RCF)

An Order dismissing the docket, was adopted in #97-227, Dwight Correctional Center v. IEPA, by a vote of 6-0. (RCF)

An Order dismissing the docket, was adopted in #97-232, Frank Shirey Cadillac, Inc. v. IEPA, by a vote of 6-0. (RCF)

An Order determining that the complaint is neither duplicitous nor frivolous, and accepting the matter for hearing was adopted in #98-18, James R. and Lucille J. Metz v. United State Postal Service, by a vote of 6-0. (GTG)

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 October 8, 1997, the Board will dismiss the docket, and advising the petitioner that a \$75.00 filing fee will be required at such time as the petitioner files a petition for review was adopted in #98-26, Dean Foods Company v. IEPA, by a vote of 6-0. (RCF)

A provisional variance was granted in #98-27, Marathon Oil Company v. IEPA, by a vote of 6-0. (RCF)

A provisional variance was granted in #98-28, Peoples Gas Light and Coke Company v. IEPA, by a vote of 6-0. (RCF)

These cases were discussed and held for further discussion or possible decision: ##96-151, Keith F. Boyer v. Felecia Harris, a/k/a Felecia Dawkins, and Chicagoland Mortgage Corporation; 97-205, Illinois Landfill, Inc. v. IEPA.

ADDENDUM

A provisional variance was granted in #98-29, Scott Air Force Base v. IEPA, by a vote of 5-0. Board Member K.M. Hennessey abstained. (RCF)

A provisional variance was granted in #98-30, City of Oregon v. IEPA, by a vote of 5-0. Board Member K.M. Hennessey abstained. (RCF)

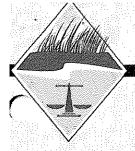
All other matters not disposed of as listed were held.

There being no further business, Board Member Flemal adjourned the meeting at 11:10 a.m..

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Minutes were approved this 4th day of September 1997, by a vote of 6-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board



GOVERNOR

Honorable Jim Edgar

CHAIRMAN

Claire A. Manning Springfield

MEMBERS

Ronald C. Flemal DeKalb

G. Tanner Girard Grafton

athleen M. Hennessey Chicago

> Marili McFawn Inverness

J. Theodore Meyer Chicago

> Joseph C. Yi Park Ridge

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ATELLITE OFFICES

110 South State Jerseyville, IL 62052 618-498-9802 Fax 618-498-5934

148 North Third St. P.O. Box 505 DeKalb, IL 60115 815-753-1904 Fax 815-753-1970

WEB SITE

v://www.state.il.us/pcb/

TDD 312-814-6032



ILLINOIS POLLUTION CONTROL BOARD

JRTC ♦ 100 W. Randolph ♦ Suite 11-500 ♦ Chicago, IL 60601 ♦ 312-814-3620 ♦ Fax 312-814-3669

REGULAR BOARD MEETING AGENDA AUGUST 21, 1997 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 A.M.

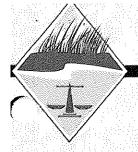
ADDENDUM

REGULATIONS AND ADJUSTED STANDARDS

AS 98-1	Petition of Carus Chemical Company for an	(GTG)
Land	Adjusted Standard from 35 Ill. Adm. Code Part	` ,
Land	814, Subpart D - Petitioner's Motion for Leave	
	to File Petitioner's Reply to Agency Response,	
	Petitioner's Reply to Agency's Response (8/20)	

MOTIONS AND OTHER MATTERS

98-29 W-V	Scott Air Force Base v. IEPA - Provisional Variance	(CAM)
98-30	City of Oregon v. IEPA - Provisional Variance	(CAM)
W-V		



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AGENDA AUGUST 21, 1997 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

July 24, 1997

REGULATIONS AND ADJUSTED STANDARDS

R97-15(B) R, Land	Amendments to the Livestock Waste Regulations, 35 Ill. Adm. Code 506 - Proposal of the Illinois Environmental Protection Agency for Procedures and Criteria to Implement the Level of Surety for Closure of Livestock Waste Lagoons (7/2), Department of Agriculture's Motion for Acceptance and Request for Waiver of Rules (7/22)	(McF)
R98-9	Municipal Solid Waste Landfill (MSWLF) Rules; Amendments to	(GTG/CAM
Land	35 Ill. Adm. Code 811.309. 811.310, 811.312, 811.319, 811.321,	/McF)
	813.103, 813.501, 813.502, and 813.503; New Section 813.504 - Request to Retain Limited Scope of Rulemaking (p.29), and	
	Request for Waiver of Signatures (p.30) (8/11)	
AS 94-20	Petition of the Galesburg Sanitary District for an Adjusted	(JY)
Water	Standard from 35 Ill. Code 304.105 (Ammonia Nitrogen) -	, ,
	Petitioner's Motion to Strike Agency's Response to its Motion for Reconsideration (7/8), Agency's Reply to the Petitioner's	
	Response to Request for Reconsideration and Response to Motion to Strike Agency's Response (7/17)	
AS 96-6	Petition of Amoco Oil Company for an Adjusted Standard From 35	(McF)
RCRA-	Ill. Adm. Code Subpart D - Petitioner's Motion to Incorporate, Amended Petition (8/11)	
Delisting	Amended Fettion (6/11)	
AS 98-1	Petition of Carus Chemical Company for an Adjusted Standard from 35 Ill. Adm. Code Part 814, Subpart D - Joint Motion for Proposed Adjusted Standard and for Expedited Decision (8/19)	(GTG)
DECISIONS		
97-231	People of the State of Illinois v. Graftek Press, Inc.	(JTM)
A-E		

ADMINISTRATIVE CITATIONS

AC 98-1	County of Will v. Edward Fogarty - Default Order (CA	
AC 98-2	IEPA v. Frank A. Olson - Accept for Hearing - No Order	
AC 98-6	IEPA v. R. Frietsch & Company, Inc Accept for Hearing - No Order	
AC 98-8	County of Will v. William Hunter - Accept Case - No Order	
AC 98-9	County of Vermilion v. Emery Johnson - Accept Case - No Order	
AC 98-10	County of Vermilion v. Darrell Grant - Accept Case - No Order	
MO	TIONS AND OTHER MATTERS	
93-191 UST-E	People of the State of Illinois v. Lloyd Wiemann d/b/a Wiemann Ice and Fuel, Texaco Refining and Marketing, Inc., and Eugene and Cheryl Halbrooks - Respondent Texaco Refining and Marketing, Inc.'s Motion for Entry of Sanctions Against Respondent Lloyd Wiemann d/b/a Wiemann Ice & Fuel (6/16), Respondent Lloyd Wiemann's Objection to Motion for Sanctions and Motion for Stay or Extension of Time (8/4), Respondent Texaco Refining and Marketing, Inc.'s Motion to Strike the Appearance of Hodge & Dwyer for Respondent Lloyd Weimann d/b/a Weimann Ice and Fuel (8/6), Respondent Texaco Refining and Marketing, Inc.'s Motion to Strike or Deny the Objection of Lloyd Weimann d/b/a Weimann Ice and Fuel to Texaco's Motion for Sanctions (8/6)	(CAM)
94-284 UST-FRD	Illico Independent Oil Company v. IEPA - Petitioner's Motion to Dismiss (7/14)	(KMH)

95-143 L-E, Citizens	Gordon Krautsack v. Bhogilal Patel, an individual, Subhash Patel, an individual, and Electronic Interconnect, Inc Complainant's Motion for Partial Summary Judgment (5/20), Complainant's Motion to Bar Response (7/22)	(RCF)
96-57 P-A, Land	<u>Laidlaw Waste Systems, Inc. v. IEPA</u> - Petitioner's Motion to Dismiss Pursuant to Settlement (8/15)	(RCF)
96-180) 97-11) W-E, Citizens	Environmental Site Developers, Inc. v. White & Brewer Trucking, Inc Complainant's Motion for Partial Summary Judgment; Memorandum in Support of Motion for Partial Summary Judgment (12/9), Respondent's Response to Motion for Partial Summary Judgment (1/14), Respondent's Amended Response to Motion for Partial Summary Judgment (2/28), Respondent's Motion for Leave to File Supplement to Response to Motion for Partial Summary Judgment (8/4), ESDI's Reply Re Motion for Partial Summary Judgment (8/4), Respondent's Motion to Reconsider (Board's 7/10/97 Order), Memorandum of Law in Support of Motion to Reconsider (8/18)	(McF)
96-192 UST-Appeal	<u>Laidlaw Waste Systems, Inc. v. IEPA</u> - Petitioner's Motion to Dismiss Pursuant to Settlement (8/15)	(RCF)
96-265 L, SW, RCRA-E, Citizens	Edward M. Pearl v. Bicoastal Corporation, Singer Corporation, and Eaton Corporation - Complainant's Response to Board Order of May 15, 1997 (8/14)	(JY)

97-38 RCRA-E	People of the State of Illinois v. Amsted Industries, Inc. d/b/a Griffin Wheel Company, L.E. Swiderski d/b/a Griffin Wheel Company, and Horsehead Resource Development Company, Inc Complainant's Motion for Voluntary Dismissal Without Prejudice of Respondents Amsted Industries, Inc. and Horsehead Resource Development Company, Inc. (4/24), Respondent Horsehead Resource Development Company's Objection to Complainant's Motion for Voluntary Dismissal Without Prejudice (5/5), Complainant's Motion for Leave to File Reply to Respondent Horsehead Resource Development Company's Objection to Motion for Voluntary Dismissal (5/8), Complainant's Response to Respondent's Objection to Complainant's Motion for Voluntary Dismissal (6/16), Respondent Horsehead Resource Development Company's Motion for Leave to File Reply and Reply to Complainant's Response to Horsehead Resource Development Company's Objection to Complainant's Motion for Voluntary Dismissal (6/25), Complainant's Objection to Respondent Horsehead Resource Development Company's Motion for Leave to File Reply (7/3)	(JY)
97-62 A-E	People of the State of Illinois v. Geon Company - Complainant's Motion to Strike Affirmative Defenses of Respondent (7/11), Respondent's Motion to Dismiss the Amended Complaint or in the Alternative its Memorandum in Opposition to Complainant's Motion to Strike Affirmative Defenses of Respondent (7/29); Complainant's Objection to Respondent's Motion to Dismiss Amended Complaint and Response to Respondent's Memorandum in Opposition to Complainant's Motion to Strike Affirmative Defenses of Respondent (8/12)	(JTM)
97-88 P-A, Land	<u>Laidlaw Waste Systems, Inc. v. IEPA</u> - Petitioner's Motion to Dismiss Pursuant to Settlement (8/15)	(RCF)

97-92 W-E	People of the State of Illinois v. Victor G. Heuermann - Respondent's Motion to Dismiss (7/14), Complainant's Response to Respondent's Motion to Dismiss (7/18), Respondent's Motion for Leave to File Reply Brief and Reply to Complainant's Response to Motion to Dismiss (7/23), Complainant's Motion for Leave to File Objections to Respondent's Reply Instanter and Complainant's Objection to Respondent's Reply (8/1)	(JY)
97-134 RCRA-E	Dayton Hudson Corporation v. Cardinal Industries, Inc. and Daniel E. Cardinal, Jr Duplicitous/Frivolous Determination (see Respondents' Memorandum in Support of Motion to Strike	(CAM)
Citizens	Complainant filed 3/17, Complainant's Response to Motion to Strike filed 4/7, Complainant's Motion for Leave to Amend Prayer for Relief filed 4/15)	
97-144 P-A, Land	<u>Laidlaw Waste Systems, Inc. v. IEPA</u> - Petitioner's Motion to Dismiss Pursuant to Settlement (8/15)	(GTG)
97-168 Land-E	People of the State of Illinois v. Old Word Industries, Inc. and Specialty Sealant Tapes, Inc Agreed Motion to Extend Stay of Proceedings Against Old World Industries, Inc. (8/11)	(CAM)
97-175 EPCRA-E	People of the State of Illinois v. Circuit International, Inc Complainant's Motion for Summary Judgment (7/16)	(RCF)
97-177	People of the State of Illinois v. ESS L.P Complainant's Motion	(RCF)
EPCRA-E	for Summary Judgment (7/16)	
97-179 A-E	People of the State of Illinois v. Midwest Grain Products of Illinois, Inc Complainant's Motion to Strike Respondent's Affirmative Defenses (5/23), Respondent's Response to Complainant's Motion to Strike Respondent's Affirmative Defenses (6/3)	(McF)

97-194 P-A, NPDES 3 rd -Party	Department of the Navy, Naval Training Center Great Lakes v. IEPA and R. Lavin & Sons, Inc Petitioner's Motion for Reconsideration, Memorandum in Support of Its Motion for Reconsideration (8/13)	
97-199 WWS	<u>Tri Star Marketing, Inc. v. IEPA</u> - Amended Petition for Water Well Setback Exception (8/14)	(JY)
97-207 A&L-E	People of the State of Illinois v. Inspiration Development Company - Respondent's Motion for an Order (6/30), Respondent's Brief in Support of its Motion to Dismiss (7/1), Complainant's Response to Respondent's Motion to Dismiss (7/3), Respondent's Motion for Leave to File Reply to Complainant's Response to its June 26, 1997 Motion (7/14), Complainant's Response to Respondent's Motion to Stay (7/16)	(JY)
97-210 P-A, Land	ESG Watts, Inc. v. IEPA - Respondent's Motion for Summary Judgment (7/7), Petitioner's Response and Suggestions in Opposition to Respondent's Motion for Summary Judgment (7/23)	(JY)
97-217 W-E	People of the State of Illinois v. Bigelow Group, Inc Agreed Motion for Extension of Time to Plead on Behalf of Respondent (7/30)	(McF)
97-224 UST-Appeal 90-Day Ext.	Emro Marketing Company v. IEPA - Dismissal Order	(CAM)
97-227 UST-Appeal 90-Day Ext.	Dwight Correctional Center v. IEPA - Dismissal Order	(CAM)

97-228 L-V	Waste Professionals, Inc., d/b/a Pekin Landfill v. IEPA - Petitioner's Motion for Leave to File Late Response or in the Alternative an Amended Petition for Variance (8/4)	(RCF)
97-232	Frank Shirey Cadillac, Inc. v. IEPA - Dismissal Order	(CAM)
UST-Appeal		
90-Day Ext.		
98-1	City of Salem v IEPA - Petitioner's Motion for Extension of Time	(McF)
L-V	(8/6)	
98-18	James R. and Lucille J. Metz v. United States Postal Service -	(GTG)
N-E, Citizens	Respondent's Answer to Complaint (8/4)	
98-24	White Cap, Inc. v. IEPA - Illinois EPA's Motion to Dismiss (8/19)	(JTM)
A-V		
98-26	Dean Foods Company v. IEPA - Joint Request for 90-Day	(CAM)
P-A, Air	Extension of Appeal Period (8/13)	
90-Day Ext.		
98-27	Marathon Oil Company v. IEPA - Provisional Variance	(CAM)
L-E		
98-28	Peoples Gas Light and Coke Company v. IEPA - Provisional	(CAM)
L-E	Variance	

CASES PENDING DECISION

96-151 L-E, Citizens	Keith F. Boyer v. Felecia Harris, a/k/a Felecia Dawkins, and Chicagoland Mortgage Corporation	(McF)
97-205 L-V	Illinois Landfill, Inc. v. IEPA (due 9/13)	(GTG)

ADJOURNMENT

LIST OF NEW CASES FILED SINCE JULY 24, 1997 BOARD MEETING

AC 98-8	County of Will v. William Hunter	
AC 98-9	County of Vermilion v. Emery Johnson	
AC 98-10	County of Vermilion v. Darrell Grant	
98-26	Dean Foods Company v. IEPA	
98-27	Marathon Oil Company v. IEPA	
98-28	Peoples Gas Light and Coke Company v. IEPA	

REGULAR BOARD MEETING SCHEDULE FOR CALENDAR YEAR 1997

September 4 *

September 18

October 2

October 16 *

November 6

November 20

December 4

December 18

NOTE: All Board Meetings held in Chicago will be held in Conference Room 9-040. Those noted with an asterisk will be held in Conference Room 9-031. The September 4, 1997 Board Meeting will be held in the State of Illinois Building, 160 N. LaSalle Street, Room 505 at 10:30 a.m..

CASE TYPE CODES:

3d P	Thind Down Antina	4.0	A A sector to A security of City at
	Third Party Action	A-C	Administrative Citation
A-E	Air Enforcement	A-S	Adjusted Standard
A-V	Air Variance	CSO	Combined Sewer Overflow Exception
GW	Groundwater	HW Delist R	CRA Hazardous Waste Delisting
L-E	Land Enforcement	L-S-R	Landfill Siting Review
L-V	Land Variance	MW	Medical Waste (Biological Materials)
N-E	Noise Enforcement	N-V	Noise Variance
P-A	Permit Appeal	PWS-E	Public Water Supply Enforcement
PWS-V	Public Water Supply Variance	R	Regulatory Proceeding
RCRA	Resource Conservation and Recovery	$S0_2$	S0 ₂ Alternative Standards (35 ILL.
	Act proceeding (hazardous waste only)	_	ADM. CODE 302.211(f))
SWH-E	Special Waste Hauling Enforcement	SWH-V	Special Waste Hauling Variance
T	Thermal Demonstration Rule	T-C	Tax Certifications
T-S	Trade Secrets	UST-Appeal	Underground Storage Tank Corrective
		••	Action Appeal
UST-E	Underground Storage Tank Enforcement	UST-FRD	Underground Storage Tank Fund
			Reimbursement Determination
W-E	Water Enforcement	W-V	Water Variance
WWS	Water-Well Setback Exception		