

ILLINOIS POLLUTION CONTROL BOARD

**MINUTES OF REGULAR BOARD MEETING
MARCH 17, 1994 CHICAGO, ILLINOIS**

All Board Members were present.

An Opinion and Order was adopted in #93-195, City of Herrin, by a vote of 6-0. (GTG)

An Opinion and Order was adopted in #94-52, People of the State of Illinois v. Jays Foods, Inc., by a vote of 5-0. E. Dunham abstained, and J. Theodore Meyer concurred. (CAM)

An Opinion and Order was adopted in #94-56, People of the State of Illinois v. Land O'Frost, Inc., by a vote of 6-0. J. Theodore Meyer concurred. (CAM)

An Opinion and Order was adopted in #94-59, People of the State of Illinois v. Acme Barrel Company, Inc., by a vote of 6-0. J. Theodore Meyer concurred. (CAM)

An Adopted Rule, Final Order, Opinion and Order was adopted in R93-16, RCRA Update, USEPA Regulations (January 1, 1993 through June 30, 1993), by a vote of 6-0. (ED)

A Proposed Rule, First Notice, Opinion and Order was adopted in R93-27, Groundwater Protection: Amendments to Groundwater Quality Standards 35 Ill. Adm. Code 620, by a vote of 6-0. (RCF)

A Default Order was adopted in this Administrative Citation by a vote of 6-0: 94-4, County of DuPage v. Waste Management of Illinois.

An Order vacating a November 18, 1993 Default Order and thereby closing the docket, was adopted in #AC 93-246, Robert Waldron, by a vote of 6-0. (CAM)

An Order granting the Complainant's and Respondent's motions to dismiss and thereby closing the docket, was adopted in #AC 93-60, Envotech-Illinois, Inc., by a vote of 6-0. (ED)

An Order directing the parties to submit status reports to be received by the Board on or before May 31, 1994, was adopted in #AS 90-5, Petition of R. Lavin & Sons, by a vote of 6-0. (RCF)

An Order granting the parties' motion for stay, the Agency's motion for an extension of time until September 9, 1994 to file its

response to the petition, and directing the parties to file an updated joint status report on or before September 9, 1994, was adopted in #AS 92-1, Petition of Stiffel Company, by a vote of 6-0. (CAM)

By a vote of 6-0, the Board ordered sanctions in the amount of \$84,292.45 to be paid by the Illinois Environmental Protection Agency to the Petitioner on or before July 3, 1994, denied the Petitioner leave to file a supplemental request for attorneys fees incurred from November 1, 1993 to the closure of the PCB 89-184 and PCB 93-23 dockets, and, on its own motion, consolidated both of the proceedings and dismissed the dockets in ##89-184, -92-23, The Grigoleit Company. (CAM)

An Order directing the parties to submit status reports to be received by the Board on or before May 31, 1994, was adopted in #90-31, R. Lavin & Sons, by a vote of 6-0. (RCF)

An Order directing the Petitioner and the Agency to file updated status reports or a joint status report on or before May 13, 1994, was adopted in #91-94, Safety-Kleen Corporation, by a vote of 6-0. (CAM)

An Order directing the parties to submit status reports to be received by the Board on or before May 31, 1994, was adopted in #91-139, R. Lavin & Sons, by a vote of 6-0. (RCF)

An Order granting the Petitioner's voluntary motion to withdraw, was adopted in #92-61, Ethyl Petroleum Additives, by a vote of 6-0. (CAM)

An Order directing the parties to file status reports by April 4, 1994, and advising the parties that failure to file the status reports as ordered may subject the matter to dismissal, was adopted in #92-163, DJM Oil Company, by a vote of 6-0. (ED)

An Order granting the Petitioner's motion to voluntarily dismiss, was adopted in #92-196, Safety-Kleen Corporation, by a vote of 6-0. (GTG)

An Order directing the Petitioner and the Agency to file status reports or a joint status report, if preferred, no later than June 17, 1994, and advising the parties that the Board expect no further extensions, was adopted in #92-211, Safety-Kleen Corporation, by a vote of 6-0. (JTM)

An Order directing the parties to file a status report to be received by the Board no later than June 15, 1994, was adopted in #93-71, Indian Refining Company, by a vote of 6-0. (GTG)

An Order granting the Petitioner's motion to reconsider, and upon reconsideration, the Board replaced the previous Order adopted January 20, 1994, was adopted in #93-72, Atlanta Meadows, by a vote of 6-0. (CAM)

An Order granting the Petitioner's motion for an extension of time until March 30, 1994, to comply with the Board's February 3, 1994 Order, was adopted in #93-104, Griffin Service, by a vote of 6-0. (GTG)

An Order deferring the Petitioner's motion for summary judgment and the Agency's cross-motion for summary judgment, and also denying the Petitioner's request for attorney fees under Section 57.8(1) of the Act, was adopted in #93-124, Tolles Realty Company, by a vote of 5-1. J. Theodore Meyer dissented. (ED)

An Order granting the Petitioner's motion to appear pro hac vice on behalf of Jane F. Clokey, was adopted in #93-172, Inspiration Development Company, by a vote of 6-0. (JTM)

An Order denying the Agency's motion to dismiss, and construing the additions presented with the Petitioner's response to the Agency's motion to dismiss, as amending its petition, and as a consequence, the 120 day decision timeclock will restart from the date of the filing of the response, was adopted in #94-27, Marathon Oil Company, by a vote of 6-0. (RCF)

An Order granting the Petitioner's motion to supplement its petition for variance by adding a new Exhibit 4, and noting that since Exhibit 4 does not change the relief requested in any way and represents no real "change" in the petition for variance relief, the statutory decision date will remain June 14, 1994, was adopted in #94-60, Mobil Oil Corporation, by a vote of 6-0. J. Theodore Meyer concurred. (McF)

An Order granting the Agency's motion to file the record instanter, was adopted in #94-61, Produce Wagon, by a vote of 6-0. (RCF)

An Order granting the Petitioner's motion to defer the proceedings for ninety days, and directing the Petitioner to file a status report with the Clerk of the Board on or before June 16, 1994, which shall indicate the status of the negotiations with the USEPA, whether additional time will be required to complete negotiations, or whether it will be necessary to proceed with the rulemaking, and in the event that settlement is reached sooner than anticipated, requesting the Petitioner to file the appropriate motion withdrawing the petition for a site-specific rule, was adopted in R81-19, Citizens Utilities Company, by a vote of 5-0. R.C. Flemal abstained. (CAM)

An Order granting an extension of the stay only until May 19, 1994, and advising the parties that any motions to dismiss, withdraw, or other appropriate motions the parties want the Board to consider must be received by the Board by May 6, 1994, was adopted in R90-1(D), Toxic Air Contaminant List, Styrene, by a vote of 6-0. (CAM)

These cases were discussed and ordered held to March 31 1994 for further discussion or possible decision: ##92-80, Lake County Forest Preserve District; 92-166, Marathon Oil Company; AC 93-30 (Dockets A & B), The Illinois National Bank of Springfield, n/k/a First of America Trust Company and Ray Landers; 93-158, Wheaton Park District; 94-73, People of the State of Illinois v. K N I Corporation, and Knomark, Inc..

These regulatory matters were discussed and ordered held to March 31, 1994 for further discussion or possible decision: R90-26 (Dockets A & B), Steel and Foundry Industry Amendments to the Landfill Regulations (35 Ill. Adm. Code 810 through 815 and 817), Proposed Rule, Second First Notice, Request for Public Comments, Supplemental Opinion and Order; R90-26 (Docket B), Steel and Foundry Industry Amendments to the Landfill Regulations (35 Ill. Adm. Code 810 through 815 and 817); R93-26, Amendments to the New Source Review Rules (35 Ill. Adm. Code 203), Adopted Rule, Final Order, Opinion and Order.

In new cases, these actions were taken by a vote of 6-0: ##94-2, Anne Shepard, James Verhein, Jerold Leckman v. Northbrook Sports Club and Village of Hainesville, Complainants' March 9, 1994 filing entitled motion to order discovery under the Act was found by the Board to be a reply to a response and was stricken, and also the responses to Complainants' motion to order discovery under the Act, filed on March 15 and 16, were deemed by the Board to be moot since the Board struck the motion, **Order by G. Tanner Girard**; 94-75, Jay Aguilar v. The City of Wood Dale, Respondent's motion to dismiss was denied, **Order by E. Dunham**; 94-80, Gunit Corporation v. EPA, additional information requested, **Order by C.A. Manning**; 94-82, H.C.T.K., Inc. v. EPA, additional information requested, **Order by J. Theodore Meyer**; 94-83, People of the State of Illinois v. George Ribble, hearing mandatory; 94-84, People of the State of Illinois v. Winnebago Reclamation Service, Inc. and William Lans Son's Company, Inc.; 94-85, Nichols Aluminum v. EPA, accepted for hearing; 94-86, Auburn, Divernon, Girard, Pawnee, Thayer, Virden Water Commission v. EPA, held for Agency Recommendation; R94-1, Amendments to 35 Ill. Adm. Code 302.202, 302.208, 302.212, 302.213, 302.407, 304.122 and 304.301 (Ammonia, Nitrogen, Lead and Mercury), accepted for hearing, **Order by C.A. Manning, R.C. Flemal and E. Dunham**.

Because a Petition for Review was received, this Administrative Citation will be set for hearing: #94-5, James W. Bennett.

These Administrative Citations were accepted by the Board: ##94-11, Sangamon County v. ESG Watts, Inc.; 94-12, Sangamon County v. ESG Watts, Inc.; 94-13, Sangamon County v. ESG Watts, Inc..

In new Adjusted Standards, these actions were taken by a vote of 6-0: ##94-1, Petition of Illinois Wood Energy Partners, L.P., accepted for hearing, **Order by C.A. Manning**; 94-3, Petition of

Outboard Marine Corporation (OMC Waukegan Facility), accepted for hearing, **Order by M. McFawn.**

An Order granting the parties' joint motion for reconsideration of the Board's February 17, 1994 Order directing that all hearings in the matter be completed by July 1, 1994, and upon reconsideration, ordered that all hearings in the matter be completed by October 1, 1994, was adopted in #92-176, Central Can Company, by a vote of 6-0. **(JTM)**

A provisional variance was granted in new case #94-87, Marathon Oil Company v. EPA, by a vote of 6-0. **(CAM)**

A provisional variance was granted in new case #94-88, Amerock Corporation v. EPA, by a vote of 5-0. M. McFawn abstained. **(CAM)**

A provisional variance was granted in new case #94-89, Danville Sanitary District v. EPA, by a vote of 6-0. **(CAM)**

A provisional variance was granted in new case #94-90, Illinois Power Company v. EPA, by a vote of 5-0. M. McFawn abstained. **(CAM)**

A provisional variance was granted in new case #94-91, Central Illinois Public Service Company - Meredosia Power Station v. EPA, by a vote of 6-0. **(CAM)**

A Proposed Rule, First Notice, Opinion and Order was adopted in new regulatory matter R94-2, Regulation of Petroleum Underground Storage Tanks, by a vote of 6-0. **(CAM, JTM, McF)**

Minutes of the March 3, 1994 Board Meeting were approved by a vote of 6-0.

After changing the September 22, 1994 Board Meeting to September 15, 1994, the Board adopted the following FY 94/95 Meeting Schedule by a vote of 6-0:

1994

July 21
August 11
September 1, 15
October 6, 20
November 3
December 1, 15

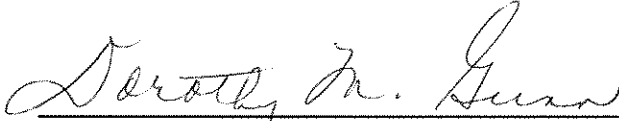
1995

January 12
February 16
March 16
April 20
May 18
June 15

Thereafter, Chairman Manning, announced that the March 31, 1994 Board Meeting date might be changed due to Board Member's Senate confirmations.

All other matters not disposed of as listed were ordered held to March 31, 1994 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 31st day of March, 1994, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
MARCH 17, 1994 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ADDENDUM

MOTIONS:

92-176 Central Can Company - Joint Motion for
Reconsideration of February 17, 1994 Board Order
(3/15), Petitioner's Supplement to Joint Motion
for Reconsideration (3/16) (JTM)

NEW CASES:

94-87 Marathon Oil Company v. EPA (Provisional Variance)
(CAM)

94-88 Amerock Corporation v. EPA (Provisional Variance)
(CAM)

94-89 Danville Sanitary District v. EPA (Provisional
Variance) (CAM)

94-90 Illinois Power Company v. EPA (Provisional
Variance) (CAM)

94-91 Central Illinois Public Service Company -
Meredosia Power Station v. EPA (Provisional
Variance) (CAM)

R94-2 Regulation of Petroleum Underground Storage Tanks
(See also Agency motion for Acceptance and Motion
Regarding Incorporations by Reference) (CAM) (JTM)
(McF)

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
MARCH 17, 1994 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

DECISIONS:

- * 93-195 City of Herrin (GTG) (due)
-
- 94-52 People of the State of Illinois v. Jays Foods, Inc.
(CAM) (Stipulation)
-
- 94-56 People of the State of Illinois v. Land O'Frost,
Inc. (CAM) (Stipulation)
-
- 94-59 People of the State of Illinois v. Acme Barrel
Company, Inc. (CAM) (Stipulation)
-
- R93-16 RCRA Update, USEPA Regulations (January 1, 1993
through June 30, 1993), Adopted Rule, Final Order,
Opinion and Order (ED)
-
- R93-27 Groundwater Protection: Amendments to Groundwater
Quality Standards 35 Ill. Adm. Code 620), Proposed
Rule, First Notice, Opinion and Order (RCF)
-

AC DEFAULT ORDERS:

- 94-4 County of DuPage v. Waste Management of Illinois
-

MOTIONS:

- AC 93-46 Robert Waldron - Complainant's Motion to Dismiss Administrative Citation in Response to February 17, 1994 Board Order (3/14) (CAM)
-
- AC 93-60 Envotech-Illinois - Respondent's Motion for Leave to Withdraw Petition for Review (3/8), Complainant's Motion for Voluntary Dismissal (3/8) (ED)
-
- AS 90-5 R. Lavin & Sons - Joint Status Report in Response to February 3, 1994 Board Order (3/14) (RCF)
-
- AS 92-1 Stiffel Company - Joint Status Report in Response to October 7, 1993 Board Order and Request for Stay (3/2), Agency Request for Extension of Time to File Agency Response (3/2) (CAM)
-
- AS 93-7 Keystone Steel and Wire Company - Petitioner's Motion for Correction of February 17, 1994 Board Order (3/11) (ED)
-
- 89-184 The Grigoleit Company - Petitioner's Motion for
92-23 Order Assessing Sanctions (12/15), Petitioner's Supplement to the Motion for Order Assessing Sanctions (2/23), Agency Response to Petitioner's Supplement to Motion for Order Assessing Sanctions (Note: filed under Docket #92-23) (3/7), Agency Motion to Amend Agency's Response to Motion Assessing Sanctions and Amended Response (3/7), Petitioner's Motion for Leave to File Objection (3/9), Agency Motion for Leave to File Response to Objections and Response to Objections to Response to Supplement Motion for Order Assessing Sanctions (3/11) (CAM)
-
- 90-31 R. Lavin & Sons - Joint Status Report in Response to February 3, 1994 Board Order (3/14) (RCF)
-
- 91-86 Raymond and Mary Moore - Petitioner's Status Report in Response to December 16, 1993 Board Order (2/15), Petitioner's Supplemental Status Report (2/28) (McF)
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MOTIONS: (Cont'd)

- 91-94 Safety-Kleen Corporation - Petitioner's Status Report in Response to February 3, 1994 Board Order (3/10) (CAM)
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- 91-139 R. Lavin & Sons - Joint Status Report in Response to February 3, 1994 Board Order (3/14) (RCF)
-
- 92-61 Ethyl Petroleum Additives - Petitioner's Voluntary Motion to Withdraw Petition for Review (3/14) (CAM)
-
- 92-163 DJM Oil Company - Status Report Order (ED)
-
- 92-196 Safety-Kleen Corporation - Petitioner's Motion to Voluntarily Dismiss (3/3) (GTG)
-
- 92-211 Safety-Kleen Corporation - Petitioner's Status Report in Response to February 17, 1994 Board Order (3/4) (JTM)
-
- 93-71 Indian Refining Company - Joint Status Report in Response to December 2, 1993 Board Order (2/28) (GTG)
-
- 93-72 Atlanta Meadows - Agency Motion to Reconsider or in the Alternative Motion to Clarify January 20, 1994 Board Order (2/24), Petitioner's Response to Agency Motion to Reconsider (3/9) (CAM)
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- 93-104 Griffin Service - Petitioner's Motion for Extension of Time to Comply with February 3, 1994 Order (3/4) (GTG)
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MOTIONS: (Cont'd)

- 93-124 Tolles Realty Company - Petitioner's Status Report in Response to July 1, 1993 Board Order (1/3), Petitioner's Motion for Summary Judgment (1/14), Agency Motion for Leave to File Instanter and Agency Response to Petitioner's Motion for Summary Judgment and Counter-Motion for Summary Judgment (2/3), Petitioner's Reply to Agency's Response to Petitioner's Motion for Summary Judgment and Response to Agency's Cross-Motion for Summary Judgment (3/1) (ED)
-
- 93-172 Inspiration Development Company - Petitioner's Motion to Appear Pro Hac Vice (3/9) (JTM)
-
- 93-247 Valerie Johnson et al. - Complainants' Motion for Reconsideration of February 3, 1994 Order (3/7) (McF)
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- 94-27 Marathon Oil Company - Agency Motion to Dismiss Variance Petition and Motion to Extend Time to File Agency Recommendation (3/8), Petitioner's Response to Motion to Dismiss and Motion to Extend Time to File Agency Recommendation (3/14) (RCF)
-
- 94-60 Mobil Oil Corporation - Petitioner's Motion to Supplement Petition for Variance (3/4) (RCF)
-
- 94-61 Produce Wagon - Agency Motion to File Record Instanter (3/2) (RCF)
-
- 94-76 AKZO Chemicals - Objection (3/14) (RCF)
-
- R81-19 Citizens Utilities Company - Petitioner's Motion to Reconsider and Vacate January 20, 1994 Board Order (2/16), Agency Motion to File Agency Comments Instanter (3/1), Petitioner's Motion to Defer Proceedings (3/7) (CAM)
-
- R90-1(D) Toxic Air Contaminants List, Styrene - Styrene Information and Research Center's Status Report and Motion to Continue (2/25) (CAM)
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DISCUSSIONS:

- 92-80 Lake County Forest Preserve District (JTM)

- * 92-166 Marathon Oil Company (RCF) (due 3/31)

- AC 93-30 The Illinois National Bank of Springfield, n/k/a
(A & B) First of America Trust Company and Ray Landers (ED)

- * 93-158 Wheaton Park District (CAM) (due 3/31)

- 94-73 People of the State of Illinois v. K N I
Corporation, and Knomark, Inc. (McF) (Stipulation)

REGULATORY DISCUSSIONS:

- R90-26 Steel and Foundry Industry Amendments to the
(A & B) Landfill Regulations (35 Ill. Adm. Code 810 through
815 and 817), Proposed Rule, Second First Notice,
Request for Public Comments, Supplemental Opinion
and Order (RCF) _____
- R90-26 Steel and Foundry Industry Amendments to the
(B) Landfill Regulations (35 Ill. Adm. Code 810 through
815 and 817) (RCF) _____
- R93-26 Amendments to the New Source Review Rules 35 Ill.
Adm. Code 203, Adopted Rule, Final Order, Opinion
and Order (GTG) _____

AMENDED PETITIONS:

- 94-51 Rodney B. Nelson, III (filed 2/24) (Consolidated
with PCB 94-58; See also Motion to Dismiss filed by
Waste Management of Illinois 3/1; Motion in Support
of Rodney Nelson's Standing filed 3/3; Petitioner's
Reply to Standing Challenge filed 3/7; Waste
Management of Illinois, Inc.'s Response to Kane
County's Motion in Support of Rodney B. Nelson
Standing filed 3/9; The City of Geneva's Response
to Motion to Dismiss and Other Matters filed
3/14) (CAM) _____

NEW CASES:

- 94-2 Anne Shepard, James Verhein, and Jerold Leckman v. Northbrook Sports Club, and Village of Hainesville (See also Northbrook Sports Club's Motion to Dismiss as Frivolous filed 1/26; Village of Hainesville's Motion to Dismiss filed 1/27; Northbrook Sports Club's Supplemental Memorandum in Support of Motion to Dismiss as Frivolous filed 1/28; Complainants' Request for Admission of Genuineness of Document, Request for Documents, and Request for Admission of Fact filed 2/1; Northbrook Sports Club's Responses to Complainants' Requests for Admission of Genuineness of Documents, Request for Documents and Requests for Admission of Fact filed 2/24; Complainants' Motion to Dismiss Northbrook Sports Club's February 24, 1994 Response to Complainants' Discoveries of January 31 and February 14, 1994 filed 3/2; Amendment to Complainants' January 31, 1994 Motion filed 3/2; Northbrook Sports Club Response to Complainants' Amendment to January 31, 1994 Motion filed 3/2; Complainant Jerold Leckman's Motion to Order Discoveries under the Act filed 3/9) (GTG)
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- 94-75 Jay Aguilar v. The City of Wood Dale (See also Respondent's Motion to Dismiss filed 3/4) (ED)
-
- 94-80 Gunite Corporation v. EPA (CAM)
-
- 94-82 H.C.T.K., Inc. v. EPA (JTM)
-
- 94-83 People of the State of Illinois v. George Ribble (McF)
-
- 94-84 People of the State of Illinois v. Winnebago Reclamation Service, Inc. and William Lans Son's Company, Inc.
-
- 94-85 Nichols Aluminum v. EPA
-
- 94-86 Auburn, Divernon, Girard, Pawnee, Thayer, Virden Water Commission v. EPA
-

NEW CASES: (Cont'd)

R94-1 Amendments to 35 Ill. Adm. Code 302.202, 302.208, 302.212, 302.213, 302.407, 304.122 and 304.301 (Ammonia, Nitrogen, Lead and Mercury) (CAM) (RCF) (ED)

AC APPEALS:

94-5 James W. Bennett

NEW AC CASES:

94-11 Sangamon County v. ESG Watts, Inc.

94-12 Sangamon County v. ESG Watts, Inc.

94-13 Sangamon County v. ESG Watts, Inc.

NEW ADJUSTED STANDARDS:

94-1 Petition of Illinois Wood Energy Partners, L.P. (See also Request for Hearing by Maureen L. Drankiewicz filed 2/17; Request for Hearing by Cathy Busto filed 2/22; Petitioner's Certificate of Publication from The Daily Southtown filed 2/22; Petitioner's Certificate of Publication from The Chicago Heights Star filed 2/22; Requests for Hearing by Thomas J. Knuth and Ted Anthony filed 2/24; Request for hearing by the South Cook County Environmental Action Coalition filed 2/28; Supplement to February 17, 1994 filing by Maureen L. Drankiewicz filed 3/2; Request for hearing by Bill Balthis, State Representative filed 3/3) (CAM)

94-3 Petition of Outboard Marine Corporation (OMC Waukegan Facility) (See Petitioner's Certificate of Publication from the Copley Press, Inc. filed 3/7) (McF)

NEW ADJUSTED STANDARDS: (Cont'd)

94-7 Rhone-Poulenc Basic Chemicals Company, Thorn Creek Basin Sanitary District (See Petitioner's Certificate of Publication from The Chicago Heights Star filed 3/11) (RCF)

MINUTES:

March 3, 1994

ADOPTION OF FY 94/95 BOARD MEETING SCHEDULE:

1994

July 21
August 11
September 1, 22
October 6, 20
November 3
December 1, 15

1995

January 12
February 16
March 16
April 20
May 18
June 15