

**MINUTES OF REGULAR BOARD MEETING
MAY 21, 1992 CHICAGO, ILLINOIS**

Chairman Marlin called the meeting to order and announced that his assistant, Mark Miller, will be leaving the Board to start his own law firm in Champaign. All Board Members were present.

An Interim Opinion and Order was adopted in #90-148, B & M Steel Service Center, by a vote of 7-0. (GTG)

An Interim Opinion and Order was adopted in #90-149, Straders Logging & Lumber Mill, by a vote of 7-0. (GTG)

An Opinion and Order was adopted in #90-200, Vito Zivoli, by a vote of 6-1. B. Forcade dissented. (JA)

An Opinion and Order was adopted in #91-113, Department of the Army, by a vote of 7-0. (BF)

An Opinion and Order was adopted in #91-118, City of Braidwood, by a vote of 6-1. B. Forcade dissented. (JCM)

An Opinion and Order was adopted in #91-136, Don Bolender, by a vote of 7-0. (JA)

An opinion and Order was adopted in #91-205, Fred & Cynthia Strube, by a vote of 7-0. (BF)

An Opinion and Order was adopted in #92-18, Village of Glasford, by a vote of 6-1. B. Forcade dissented. (JCM)

In R89-15, Underground Injection, an Opinion and Order was adopted by a vote of 7-0. (MN)

In R91-13, RCRA Update (January 1, 1991 through June 30, 1991), a Supplemental Opinion and Order was adopted by a vote of 7-0. (JA)

Default Orders were adopted in these Administrative Citations by a vote of 7-0: ##92-27, Lincoln/Logan Landfill, Inc.; 92-28, Lincoln/Logan Landfill, Inc.; 92-29, Richard Haan, Jr.; 92-31, City of Centreville.

An Order denying Respondent's motion to reconsider and to vacate the Board's April 23, 1992 default order, but granting Respondent an extension of time until June 21, 1992 to pay the \$500.00 penalty, was adopted in #AC 92-16, Harold Hillebrenner, by a vote of 7-0. (JCM)

First of America Trust's motion to be dismissed as a Respondent on the grounds that it does not own the parcel of land at issue as a trustee, was granted in #AC 92-30, Ray Landers, by a vote of 7-0. (JCM)

Agency motion for an extension of time within which to respond to

Petitioner's petition for an adjusted standard was granted until June 23, 1992, in #AS 92-1, Stiffel Company, by a vote of 7-0. (JA)

Petitioner's motion to dismiss was granted in #90-8, The City of Metropolis, by a vote of 7-0. (BF)

Respondent's motion to dismiss or stay the scheduling of hearing was denied in #90-63, City of East Moline, by a vote of 7-0. (RCF)

Since a hearing had been scheduled, Petitioner's motion to compel entry of a final Order was denied as moot, and Respondents' motion to postpone hearing was referred to the hearing officer for disposition in #90-146, Village of Matteson, by a vote of 7-0. (BF)

Petitioner's motion for voluntary dismissal was granted in #91-176, M & M Flexographic Printers, by a vote of 7-0. (BF)

Respondent's motion to withdraw instanter its May 4, 1992 motion for reconsideration of the Board's March 26, 1992 Order, was granted in #91-192, Prairie Material Sales, by a vote of 7-0. (JA)

Respondent's motion to dismiss was denied in #91-194, Residents of Cedarville, by a vote of 7-0. (BF)

Agency motion to file the record instanter was granted in #92-40, Waste Hauling, by a vote of 7-0. (JA)

Agency motion to file the record instanter was granted in #92-49, Bernard Miller, by a vote of 7-0. (JA)

Agency motion to file the record instanter was granted in #92-53, Martin Oil Marketing, by a vote of 7-0. (JA)

Agency motion to file the record instanter was granted and Agency motion to dismiss was denied in #92-54, ESG Watts, by a vote of 7-0. (JA)

By a vote of 6-0, an Order dismissing the cross-appeal of respondents Intergovernmental Solid Waste Disposal Association and XL Disposal Corporation, and dismissing J.M. Jones Company and Duke & Associates as respondents, was adopted in #92-55, Stephen A. Smith et al. J.C. Marlin abstained. (JTM)

Agency motion to extend the time within which to file the Agency record was granted until June 30, 1992 in #92-61, Ethyl Petroleum, by a vote of 7-0. (JCM)

These cases were discussed and ordered held to June 4, 1992 for

further discussion or possible decision: ##88-193, General Motors; 90-135, The Grigoleit Company; AC 91-31(A & B), Randall Loveless; 91-256, Gallatin National; 92-22, Warren's Service; 92-25, Land and Lakes.

These regulatory matters were discussed and ordered held to June 4, 1992 for further discussion or possible decision: R90-1(A), Toxic Air Contaminants List, Proposed Rule, Second Notice, Opinion and Order; R90-23, Ferrous Foundries in Vermilion County; R91-28, RACT Amendments: Expansion of Chicago MSA; R91-29, RACT Amendments: Expansion of Metro-East Area, Proposed Rule, Second Notice, Opinion and Order; R91-30, RACT Amendments: Stage II Vapor Recovery, Proposed Rule, Second Notice, Opinion and Order.

In new cases these actions were taken by a vote of 7-0: ##92-48, Bruce Nesbitt v. The 100 Bellevue Place Condominium Association, Respondent's motion to dismiss was granted and the matter was dismissed, **Order by J. Theodore Meyer**; 92-67, People of the State of Illinois v. Escast, Inc., hearing mandatory; 92-68, People of the State of Illinois v. Chem-Plate Industries, Inc., hearing mandatory; 92-69, People of the State of Illinois v. Patterson Gear & Machine, Inc., hearing mandatory; 92-70, People of the State of Illinois v. Union Carbide Industrial Gases, Inc., hearing mandatory; 92-71, People of the State of Illinois v. Valspar Corporation, hearing mandatory; 92-72, Adams Electrical Cooperative v. EPA, accepted for hearing; **Order by B. Forcade**; 92-73, Parkview Plaza Associates, Inc. v. EPA, docket closed and the case was remanded to the Agency to complete its review of the reasonableness of costs, and to avoid prejudice, the Board will waive the \$75.00 filing fee if the Petitioner files a new petition for review upon final determination by the Agency, **Order by J. Anderson**; 92-74, Kenneth F. Metivier and Cynthia P. Metivier v. Douglas Kenyon, d/b/a Douglas Kenyon, Inc., **held for duplicitous/frivolous determination**; 92-75, Estate of Larry Junkin, by Patricia Junkin Executrix v. EPA, accepted for hearing, **Order by B. Forcade**; 92-76, Meyer Steel Drum, Inc. v. EPA, accepted for hearing, **Order by B. Forcade**; 92-77, Village of Wataga v. EPA, provisional variance granted, **Order by J.C. Marlin**; R92-7, In the Matter of: Amendments to 35 Ill. Adm. Code 101.103(d), Regarding Recycled Paper, caption of rulemaking slightly revised, rulemaking will proceed under this new docket number instead of R90-24 because the proposed change to the rule must be the subject of a formal rulemaking, and the Board will take further action on the proposal after reviewing the proposed change, **Order by J. Theodore Meyer**.

Because Petitions for Review were filed, these Administrative Citations will be set for hearing: ##92-32, Charles & Nancy Fuchs et al.; 92-33, James Alexander.

These Administrative Citations were received by the Board: ##92-34, EPA v. W.W. Sanitation; 92-35, Sangamon County v. Capitol Bank and Trust Company of Springfield, n/k/a Magna Bank of Central


Illinois, Known as Trust Number TLT-423, Fred E. Widger and Kim Boggs; 92-36, Sangamon County v. Ruth Ann Sheppard and Steve Sheppard; 92-37, Sangamon County v. Gerald Bruce Miller; 92-38, County of Ogle v. Richard Haan, Jr..

An Order accepting the adjusted standard for hearing, and to facilitate the Board's prompt determination of the merits of the petition, directing the parties to address enumerated issues and questions at hearing, was adopted in #AS 92-4, Joint Petition of Detroit Diesel Corporation, Navistar International Transportation Corporation, Cummins Engine Company and the Engine Manufacturers Association, by a vote of 7-0. (JA)

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

All other matters not disposed of as listed were ordered held to June 4, 1992, for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 4th day of June, 1992, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

FINAL AGENDA
MAY 21, 1992 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

DECISIONS:

90-148 B & M Steel Service Center (GTG)

90-149 Straders Logging & Lumber Mill (GTG)

90-200 Vito Zivoli (JA) _____

* 91-113 Department of the Army (BF) (open waiver)

* 91-118 City of Braidwood (JCM) (due)

91-136 Don Bolender (JA) _____

* 91-205 Fred & Cynthia Strube (BF) (due)

* 92-18 Village of Glasford (JCM) (due)

R89-15 Underground Injection, Opinion and Order (MN)

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

AC DECISIONS:

92-27 Lincoln/Logan Landfill _____

92-28 Lincoln/Logan Landfill _____

*** INDICATES VARIANCE OR PERMIT APPEAL**

AC DECISIONS: (Cont'd)

92-29 Richard Haan, Jr. _____
92-31 City of Centreville _____

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)
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- 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 92-16 Harold Hillebrenner - Respondent's Petition for Review (5/4), Agency response in opposition to the motion to reconsider and vacate (5/20) (JCM)
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- AC 92-30 Illinois National Bank - motion to dismiss by First of America Trust Company (4/24) (JCM)
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MOTIONS: (Cont'd)

- AS 92-1 Stiffel Company - Agency motion for a sixty-day extension of time within which to respond to Petitioner's petition for adjusted standard (4/23), Agency motion instant for a sixty-day extension of time within which to respond to Petitioner's petition for adjusted standard (4/30), Agency response to May 7, 1992 Board Order (5/18) (JA)
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- 90-8 The City of Metropolis - Petitioner's motion to dismiss (5/11)
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- 90-63 City of East Moline - Respondent's motion to dismiss or to stay the scheduling of hearing (5/11), Complainants Memorandum in opposition to dismissal or to stay the scheduling of hearing (5/18) (RCF)
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- 90-146 Village of Matteson - Complainant's motion to compel entry of final order (5/1), Respondents' motion to postpone hearing 5/19 (BF)
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- 91-53 Enamelers and Japanners - Complainant's motion for summary judgment (5/19)
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- 91-83 Village of Lincolnwood - Agency motion for summary judgment (4/27) (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) (JTM)
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- 91-176 M & M Flexographic Printers - Petitioner's motion for voluntary dismissal (5/14)
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MOTIONS: (Cont'd)

91-192 Prairie Material Sales - Respondent's request for reconsideration of Board's March 26, 1992 Order granting summary judgment in part, request for stay of discovery and for right to reply to Complainant's response (5/4), Complainant's motion to strike (5/7), Respondent's request to withdraw motion to reconsider (5/18) (JA)

91-194 Residents of Cedarville - Respondent's motion to dismiss (3/27), Respondent's response to April 23, 1992 Board Order (5/4) (BF)

92-40 Waste Hauling - Agency motion to file Record Instanter (5/11) (JA)

92-49 Bernard Miller - Agency motion to file Record Instanter (5/14) ((JA)

92-53 Martin Oil Marketing - Agency motion to file Record Instanter (5/14) (JA)

92-54 ESG Watts - Agency motion to file Record Instanter (5/15), Agency response to petition for review and motion to dismiss (5/15), Petitioner's objection to Agency's response to petition for review and motion to dismiss (5/20) (JA)

92-55 Stephen A. Smith et al. - Board Order (JTM)

92-61 Ethyl Petroleum - Agency motion to extend time to file Record (5/7) (JCM)

DISCUSSIONS:

- * 88-193 General Motors (BF) (open waiver) _____
- 90-135 The Grigoleit Company (JA) _____
- AC 91-31 Randall Loveless (JCM) _____
(A & B)
- * 91-256 Gallatin National (JA) (due 6/25) _____

DISCUSSIONS: (Cont'd)

- * 92-22 Warren's Service (GTG) (due 6/4) _____
- * 92-25 Land and Lakes (MN) (due 6/4) _____
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REGULATORY DISCUSSIONS:

- R90-1 Toxic Air Contaminants List, Proposed Rule, Second
(A) Notice, Opinion and Order (JCM) _____
- R90-23 Ferrous Foundries in Vermilion County (BF)

- R91-28 RACT Amendments: Expansion of Chicago MSA (RCF)

- R91-29 RACT Amendments: Expansion of Metro-ESA Area (RCF)

- R91-30 RACT Amendments: Stage II Vapor Recovery, Proposed
Rule, Second Notice, Opinion and Order (RCF)

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NEW CASES:

- 92-48 Bruce Nesbitt v. The 100 Bellevue Place Condominium
Association (See also Respondent's motion to
dismiss (4/9); Complainant's motion for leave to
file opposition to Respondent's motion to dismiss
on or before April 22, 1992 (4/16); Complainant's
Memorandum in opposition to Respondent's motion to
dismiss (4/22); Respondent's motion for leave to
file a reply to Complainant's response to
Respondent's motion to dismiss (4/27);
Respondent's reply to Complainant's response to
Respondent's motion to dismiss (5/6) (JTM)

- 92-67 People of the State of Illinois v. Escast, Inc.

- 92-68 People of the State of Illinois v. Chem-Plate
Industries, Inc. _____

NEW CASES: (Cont'd)

- 92-69 People of the State of Illinois v. Patterson Gear & Machine, Inc. _____
- 92-70 People of the State of Illinois v. Union Carbide Industrial Gases, Inc. _____
- 92-71 People of the State of Illinois v. Valspar Corporation _____
- 92-72 Adams Electrical Cooperative v. EPA _____
- 92-73 Parkview Plaza Associates, Inc. v. EPA _____
- 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) _____
- 92-75 Estate of Larry Junkin, by Patricia Junkin Executrix v. EPA _____
- 92-76 Meyer Steel Drum, Inc. v. EPA (BF) _____
- 92-77 Village of Wataga v. EPA (Provisional Variance) (JCM) _____
- R92-7 In the Matter of: Amendments to 35 Ill. Adm. Code 101.103(d) (JTM) _____

AC APPEALS:

- 92-32 Charles & Nancy Fuchs et al. _____
- 92-33 James Alexander _____

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)_____
- 92-34 EPA v. W.W. Sanitation, Inc._____
- 92-35 Sangamon County v. Capitol Bank and Trust Company of Springfield, n/k/a Magna Bank of Central Illinois, Known as trust Number TLT-423; Fred E. Widger and Kim Boggs_____
- 92-36 Sangamon County v. Ruth Ann Sheppard and Steve Sheppard_____
- 92-37 Sangamon County v. Gerald Bruce Miller

- 92-38 County of Ogle v. Richard Haan, Jr.

NEW ADJUSTED STANDARDS:

- AS 92-4 Joint Petition of Detroit Diesel Corporation, Navistar International Transportation Corporation, Cummins Engine Company and the Engine Manufacturers (5/4) (JA)

MINUTES:

May 7, 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)
 90-170 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 91-7 Sanitary District of Decatur (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 8/13)
 * 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 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 6/25)
 * 91-238 Laidlaw Environmental Services (RCF) (due 6/25)
 * 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 8/13)
 * 92-28 CSX Transportation, Inc. (MN) (due 8/13)

PENDING CASES ASSIGNED: (Cont'd)

- * 92-30 Dynamic Hydra-Blasting, Inc. (JA) (open waiver)
- * 92-31 City of Roodhouse (JA) (due 8/13)
- * 92-36 City of Lake Forest (JTM) (due 6/25)
- 92-51 United Coatings, Inc. (JCM)
- * 92-55 Stephen A. Smith et al. (JTM) (due 8/13)