

## ILLINOIS POLLUTION CONTROL BOARD

### MINUTES OF REGULAR BOARD MEETING

OCTOBER 2, 1997 CHICAGO, ILLINOIS - 10:30 A.M.

After calling the meeting to order, Chairman Manning welcomed members of the public and staff to the meeting, and then introduced and welcomed Board Member Yi's new assistant, John Knittle, to the Board. Thereafter, the Clerk was asked for a roll call and all Board Members answered present.

Minutes of the September 18, 1997 Board Meeting were approved by a vote of 7-0.

In R97-12(B), Tiered Approach to Corrective Action Objectives (T.A.C.O.): Amendments to 35 Ill. Adm. Code 742, a Proposed Rule, Second Notice, Opinion and Order, was adopted by a vote of 7-0. **(McF)(JY)**

An Order requesting additional information, was adopted in #AS 96-6, Petition of Amoco Oil Company for an Adjusted Standard from 35 Ill. Adm. Code 721.132, by a vote of 7-0. **(McF)**

In R97-13, Emissions Reduction Market System Adoption of 35 Ill. Adm. Code 205, a Proposed Rule, Second Notice, Opinion and Order, was adopted by a vote of 7-0. **(KMH)(JY)(McF)**

An Opinion and Order was adopted in #96-53, David and Susi Shelton v. Steven and Nancy Crown, by a vote of 7-0. **(GTG)**

An Opinion and Order granting the joint motion requesting relief from the Environmental Protection Act's hearing requirement, and accepting the Stipulation and Settlement Agreement in the amount of \$4,000.00, was adopted in #97-237, People of the State of Illinois v Frank Levato, by a vote of 7-0. **(JTM)**

A Default Order finding that the respondent violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act, and assessing a \$1,000.00 penalty, was adopted in #AC 97-69, County of Will v. Timothy A. Nichols, by a vote of 7-0. **(CAM)**

An Order accepting the stipulated settlement agreement proposed by the parties, finding the respondent violated Section 21(p)(1) of the Environmental Protection Act, assessing the statutory penalty of \$500.00, and directing the respondent to pay such penalty on or before November 1, 1997, was adopted in #AC 98-6, IEPA v. R. Frietsch & Company, by a vote of 7-0. **(JTM)**

A Default Order finding that the respondent violated Sections 21(o)(5) and (o)(13) of the Environmental Protection Act, and assessing a \$1,000.00 penalty, was adopted in #AC 98-7, IEPA v. USA Waste Services, Inc., by a vote of 7-0. **(CAM)**

A Default Order finding that the respondent violation Sections 21(p)(1) and (p)(3) of the Environmental Protection Act, and assessing a \$1,000.00 penalty, was adopted in #AC 98-10, County of Vermilion v. Darrell Grant, by a vote of 7-0. **(CAM)**

An Order directing the Clerk of the Board to cause publication of the required newspaper notice of an agreed motion to request relief from the hearing requirement, was adopted in #97-49, People of the State of Illinois v. K&B Wrecking. Ltd., by a vote of 7-0. **(KMH)**

An Order denying the complainant's motion to strike affirmative defenses as to respondent's first, second, and third affirmative defenses, granting the motion to strike as to respondent's fourth and fifth affirmative defenses, accepting the respondent's motion to dismiss the amended complaint but declining to dismiss the amended complaint, and directing the hearing officer to set a new schedule for respondent's response to the motion for leave to file a second amended complaint, and for complainant's reply, was adopted in #97-62, People of the State of Illinois v. Geon Company, by a vote of 7-0. **(JTM)**

An Order granting an agreed motion to stay the proceedings until the conclusion of the mediation proceedings, and directing the parties to inform the Board of the result reached at the conclusion of the mediation process, was adopted in #97-134, Dayton Hudson Corporation v. Cardinal Industries, Inc. and Daniel E. Cardinal, Jr., by a vote of 7-0. **(CAM)**

An Order granting the complainant's motion for leave to serve respondent by publication pursuant to Section 2-206(a) of the Code of Civil Procedure, directing the complainant to send a copy of the notice to the addresses listed in the notice within 10 days of the first publication of the notice by mail, directing the complaint to file with the Board proof that it has sent a copy of the notice to respondent and has caused publication of notice in conformity with these provisions immediately upon completion of the final publication, noting that no hearing will be scheduled in the matter until 30 days after the date of the first publication, and further noting that if the respondent fails to appear at the hearing, a default order may be entered at that time, was adopted in #97-138, People of the State of Illinois v. LeRoy Cech d/b/a L&K American Wrecking, by a vote of 7-0. **(JTM)**

An Order denying the respondent's motion to reconsider the Board's August 7, 1997 order, was adopted in #97-148, Marilyn J. Richey v. Texaco Refining and Marketing, In., by a vote of 7-0. **(GTG)**

An Order granting respondent the City of Hoopston's motion to dismiss because the complaint is duplicitous and frivolous, denying respondent ADM-Demeter's motion for an extension of time to file to determine whether the complaint is duplicitous or frivolous as moot, and determining that the complaint is not frivolous or duplicative with respect to respondent Adm-Demeter, and accepting the complaint for hearing, was adopted in #98-31, Roy K. Johnson v. ADM-Demeter, Hoopston Division, by a vote of 7-0. **(KMH)**

A mandatory hearing will be held in #98-42, People of the State of Illinois v. Illini Protein.

An Order directing that the matter proceed to hearing, granting petitioner, the Sierra Club, 30 days in which to retain an attorney and for that attorney to file an amended petition on or before October 31, 1997 on behalf of the Sierra Club, and noting that if an amended petition and attorney's appearance are not filed on or before October 31, 1997, the Sierra Club will be dismissed from the action, was adopted in 98-43, Sierra Club and Jim Bensman v. City of Wood River and Norton Environmental, by a vote of 5-2. Board Members G. Tanner Girard and J. Theodore Meyer dissented. **(CAM)**

#### ADDENDUM

An Order directing the parties to file status reports on or before November 3, 1997, and noting that if the reports are not timely received, the petition will be subject to dismissal, was adopted in #AS 94-6, Petition of Hydrosol, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 218.Subpart DD, by a vote of 7-0. **(JTM)**

An Order directing the Clerk of the Board to cause publication of the required newspaper notice of a motion for relief from the hearing requirement, was adopted in #97-48, People of the State of Illinois v. Sentry Asbestos Abatement Company, Inc., by a vote of 7-0. **(KMH)**

A provisional variance was granted in #98-44, Castwell Products, Inc. v. IEPA, by a vote of 7-0. **(CAM)**

A provisional variance was granted in #98-45, Department of the Army v. IEPA, by a vote of 7-0. **(CAM)**

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 the petitioner fails to file an appeal on or before November 20, 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 #98-46, Herb Treder (Site Classification Completion Report) v. IEPA, by a vote of 7-0. **(CAM)**

A mandatory hearing will be held in #98-47, People of the State of Illinois v. State Oil Company.

#### AGENDA

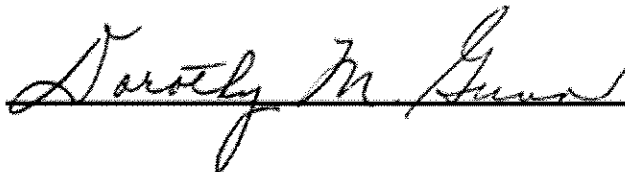
These regulatory matters were discussed and held for further discussion or possible decision: R97-25, Conforming Amendments for the Great Lakes Initiative: 35 Ill. Adm. Code Part 302.101, 302.105, 302.Subpart E, 303.334 and 304.222, Proposed Rule, Second Notice, Opinion and Order; R98-8, Clean Fuel Fleet Program: Amendments to 35 Ill. Adm. Code 241, Proposed Rule, Second Notice, Opinion and Order.

This case was discussed and held for further discussion or possible decision: #98-1, City of Salem v. IEPA.

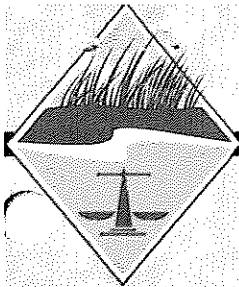
All other matters not disposed of as listed were held.

There being no further business, Chairman Manning adjourned the meeting at 11:00 a.m..

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 16th day of October 1997, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a solid horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board



# 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 OCTOBER 2, 1997 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 A.M.

### GOVERNOR

Honorable Jim Edgar

### CHAIRMAN

Claire A. Manning  
Springfield

### MEMBERS

Ronald C. Fernal  
DeKalb

G. Tanner Girard  
Grafton

Kathleen M. Hennessey  
Chicago

Marili McFawn  
Inverness

J. Theodore Meyer  
Chicago

Joseph C. Yi  
Park Ridge

## ADDENDUM

### REGULATIONS AND ADJUSTED STANDARDS

AS 94-6      In the Matter of: Petition of Hydrosol, Inc. for      (JTM)  
Air            an Adjusted Standard from 35 Ill. Adm. Code  
                  218.Subpart DD - Status Order

### MOTIONS AND OTHER MATTERS

97-48            People of the State of Illinois v. Sentry Asbestos      (CAM)  
A-E            Abatement Company, Inc. - Motion for Relief  
                  from Hearing Requirement (10/1)

97-234            Antonio D.H. Nam v. Kikon Suh -      (CAM)  
UST-E            Complainant's Proof of Service (9/30)

98-37            People of the State of Illinois v. American      (RCF)  
RCRA-E            Waste Processing, Ltd. - Complainant's  
                  Response to Respondent's Motion to Dismiss  
                  for Lack of Subject Matter Jurisdiction (9/30)

98-44            Castwell Products, Inc. v. IEPA - Provisional      (CAM)  
RCRA            Variance

98-45            Department of the Army v. IEPA - Provisional      (CAM)  
RCRA            Variance

### WEB SITE

<http://www.state.il.us/pcb/>

TDD 312-814-6032

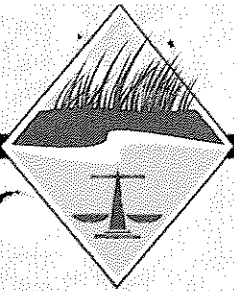


**MOTIONS AND OTHER MATTERS (Cont'd)**

98-46	<u>Herb Treder (Site Classification Completion Report) v. IEPA - Joint Request for 90-Day Extension of Appeal Period (9/30) - Order</u>	(CAM)
UST- Appeal, 90-Day Ext.		
<hr/>		
98-47	<u>People of the State of Illinois v. State Oil Company - Hearing Mandatory - No Order</u>	
A-E		
<hr/>		

# ILLINOIS POLLUTION CONTROL BOARD

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



## GOVERNOR

Honorable Jim Edgar



## CHAIRMAN

Claire A. Manning  
Springfield

## MEMBERS

Ronald C. Fernald  
DeKalb

G. Tanner Girard  
Grafton

Kathleen M. Hennessey  
Chicago

Marili McFawn  
Inverness

J. Theodore Meyer  
Chicago

Joseph C. Yi  
Park Ridge



## SPRINGFIELD OFFICE

100 South Second Street  
Suite 402  
Springfield, IL 62704  
217-524-8500  
Fax 217-524-8508

## SATELLITE 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

<http://www.state.il.us/pcb/>

TDD 312-814-6032



PRINTED ON RECYCLED PAPER

## REGULAR BOARD MEETING AGENDA OCTOBER 2, 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

September 18, 1997

---

**REGULATIONS AND ADJUSTED STANDARDS**

R97-12(B) In the Matter of: Tiered Approach to Corrective Action Objectives (McF)  
R, Land (T.A.C.O.): Amendments to 35 Ill. Adm. Code 742 - Proposed (JY)  
Rule, Second Notice, Opinion and Order

---

R97-13 In the Matter of: Emissions Reduction Market System Adoption of (KMH)  
R, Air 35 Ill. Adm. Code 205 - Proposed Rule, Second Notice, Opinion (JY)  
and Order  
McF)

---

AS 96-6 In the Matter of: Petition of Amoco Oil Company for an Adjusted (McF)  
RCRA Standard from 35 Ill. Adm. Code 721.132 - Additional Information  
Delisting Order

---

AS 98-2 In the Matter of: Petition of City of Salem for an Adjusted (McF)  
Land Standard from 35 Ill. Adm. Code Part 814.Subpart D - Hold for  
Certificate of Publication - No Order

---

**DECISIONS**

96-53 David and Susi Shelton v. Steven and Nancy Crown (GTG)  
N-E,  
Citizens

---

97-237 People of the State of Illinois v. Frank Levato - Stipulation (JTM)  
A-E

---

**ADMINISTRATIVE CITATIONS**

AC 97-69 County of Will v. Timothy A. Nichols - Default Order (CAM)

---

AC 98-6 IEPA v. R. Frietsch & Company - Joint Stipulation of Settlement (JTM)  
and Dismissal of Respondent's Petition for Administrative Review  
(9/17)

---



**ADMINISTRATIVE CITATIONS (Cont'd)**

AC 98-7      IEPA v. USA Waste Services, Inc. - Default Order      (CAM)

---

AC 98-10     County of Vermilion v. Darrell Grant - Default Order      (CAM)

---

**MOTIONS AND OTHER MATTERS**

93-80            Indian Prairie Community Unit School District No. 204 v. IEPA -      (JTM)  
UST-FRD        Petitioner's Motion for Summary Judgment and Memorandum of  
Law in Support of its Motion for Summary Judgment (8/22),  
Agency Response to Petitioner's Motion for Summary Judgment  
(9/22)

---

93-191           People of the State of Illinois v. Lloyd Weimann d/b/a Weimann      (CAM)  
UST-E           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 Weimann d/b/a Weimann Ice & Fuel (6/16),  
Respondent Lloyd Weimann'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), Complainant's Motion to Clarify Caption (9/5)

---

96-209           People of the State of Illinois v. Macon County Landfill      (JY)  
L-E               Corporation - Complainant's Motion for Partial Summary  
Judgment (9/26)

---

**MOTIONS AND OTHER MATTERS (Cont'd)**

96-265      Edward M. Pearl v. Bicoastal Corporation, Singer Corporation,      (JY)  
L, SW,      and Eaton Corporation - Complainant's Response to Board Order  
RCRA-E,      of May 15, 1997 (8/13), Respondent Bicoastal's Letter regarding  
Citizens      Party Status (9/29)

---

97-38      People of the State of Illinois v. Amsted Industries, Inc. d/b/a      (CAM)  
RCRA-E      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  
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)

---

97-49      People of the State of Illinois v. K&B Wrecking, Ltd. - Agreed      (KMH)  
A-E      Motion to Request Relief from Hearing Requirement (9/22)

---

97-62      People of the State of Illinois v. Geon Company - Complainant's      (JTM)  
A-E      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)

---

## MOTIONS AND OTHER MATTERS (Cont'd)

97-64 EPCRA-E	<u>People of the State of Illinois v. Unique Marble Products, Inc.</u> - Complainant's Motion for Reconsideration of August 7, 1997 Order (9/16), Respondent's Motion to Strike Complainant's Motion for Reconsideration (9/25), Complainant's Response to Respondent's Motion to Strike Complainant's Motion for Reconsideration (9/26)	(JTM)
97-134 RCRA-E, Citizens	<u>Dayton Hudson Corporation v. Cardinal Industries, Inc. and Daniel E. Cardinal, Jr.</u> - Respondents' Motion for Stay Pending Mediation (9/26)	(CAM)
97-138 A-E	<u>People of the State of Illinois v. LeRoy Cech d/b/a L&amp;K American Wrecking</u> - Complainant's Motion for Leave to Serve Respondent by Publication (9/26)	(JTM)
97-148 L-E, Citizens	<u>Marilyn J. Richey v. Texaco Refining and Marketing, Inc.</u> - Respondent's Motion for Reconsideration (8/29), Complainant's Response to Respondent's Motion for Reconsideration (9/23)	(GTG)
97-207 A&L-E	<u>People of the State of Illinois v. Inspiration Development Company</u> - 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)	(CAM)
97-217 W-E	<u>People of the State of Illinois v. Bigelow Group, Inc.</u> - Respondent's Motion to Dismiss (8/27)	(McF)
97-234 UST-E	<u>Antonio D. H. Nam v. Kikon Suh</u> - Complainant's Request to File Motion for Default Judgment (9/13)	(CAM)

### MOTIONS AND OTHER MATTERS (Cont'd)

98-24 White Cap, Inc. v. IEPA - Agency Motion to Dismiss (8/19), (JTM)  
A-V Petitioner's Response to the Agency's Motion to Dismiss (8/26),  
Petitioner's Motion to Change the Effective Date of the Variance  
(9/12)

---

98-31 Roy K. Johnson v. ADM-Demeter, Hoopeston Division and the (KMH)  
A & N-E, City of Hoopeston - Awaiting Duplicitious/Frivolous Determination  
Citizens **(See Respondent ADM's Motion for Extension of Time filed**  
**8/28 and City of Hoopeston's Motion to Dismiss Because the**  
**Complaint is Duplicitious and Frivolous filed 9/11)** - Order

---

98-37 People of the State of Illinois v. American Waste Processing, Ltd. (RCF)  
RCRA-E - Respondent's Motion to Dismiss Complaint for Lack of Subject  
Matter Jurisdiction (9/23)

---

98-42 People of the State of Illinois v. Illini Protein - Hearing Mandatory (GTG)  
EPCRA-E - No Order

---

98-43 Sierra Club and Jim Bensman v. City of Wood River and Norton (CAM)  
L-S-R, 3<sup>rd</sup> Environmental - Accept for Hearing Order  
Party

### CASES PENDING DECISION

R97-25 In the Matter of: Conforming Amendments for the Great Lakes (GTG)  
R, Water Initiative: 35 Ill. Adm. Code Part 302.101, 302.105, 302.Subpart  
E, 303.334 and 304.222 - Proposed Rule, Second Notice, Opinion (CAM)  
and Order (JY)

---

R98-8 In the Matter of: Clean Fuel Fleet Program: Amendments to 35 (JY)  
R, Air Ill. Adm. Code 241 - Proposed Rule, Second Notice, Opinion and  
Order

---

**CASES PENDING DECISION (Cont'd)**

98-1            City of Salem v. IEPA (due 10/30)

(McF)

L-V

---

**ADJOURNMENT**

**LIST OF NEW CASES FILED SINCE SEPTEMBER 18, 1997 BOARD MEETING**

98-42	People of the State of Illinois v. Illini Protein
98-43	Sierra Club and Jim Bensman v. City of Wood River and Norton Environmental

**REGULAR BOARD MEETING SCHEDULE FOR CALENDAR YEAR 1997**

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.**

**CASE TYPE CODES:**

3d P	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 RCRA	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 Act proceeding (hazardous waste only)	S02	S02 Alternative Standards (35 ILL. 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		