

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF FORMAL MEETING, December 22, 1970
City Hall, Rock Island, Illinois.

All Board members were present (10:00 a.m.)

Chairman Currie began the meeting with a discussion of proposed amendments to the procedural rules. The Board adopted a typographical change but deferred voting on an amendment changing the type of public notice in variance cases. In Automotive Air Quality Standards, R 70-9, the Board discussed the proposed final draft. Since several questions had arisen since the hearings, the Board put over final adoption until there was more information. The questions concerned the Federal limitation on implementation plans and the accuracy of the study on which the 9ppm study was based.

The Board then considered pending rule-making matters. Mr. Currie gave a status report on all regulation cases. He noted there might be local interest in R 70-8, Effluent Standards, as coming hearings would be held in the Rock Island area. In R 70-15, Chicago Implementation Plan, Mr. Currie explained why it was needed and what it would do toward meeting the Air Quality Standards passed by the Air Pollution Control Board. Argonne's study had been used in preparation of the plan. Mr. Currie noted that the most novel part was the ban of the use of coal in highly polluted areas of the region. The Board authorized it for public hearings and voted to submit it to the Federal Government. Mr. Kissel suggested that Federal people participate in the hearings.

Pending variance and enforcement cases were then considered. In PCB 70-8, EPA v. Glendale Heights, a decision was postponed until the full transcript was received. In PCB 70-19, Ozark-Mahoning v. EPA, an air pollution variance request for a Hardin County fluorspar operation, Mr. Currie explained his proposed opinion granting the variance. He noted the Board must balance an arbitrary and unreasonable hardship on the company against the environmental impact on the community. The company had waited two years after a date on which control plans were to be submitted. Even though the Agency did not seek a penalty, the opinion warned that the time might come when the Board would refuse to accept a plea of hardship on behalf of one who has deliberately delayed. The opinion was adopted. Mr. Kissel commented that parties polluting state waters should take heed of the opinion in that enforcement actions would be instituted against them if they did not petition for a variance within the required time limit under the Act.

In PCB 70-20, Deere Co. v. EPA, an open burning variance request for fire-fighting training, the Board adopted an opinion which granted the variance. It stated that similar cases in the

future would be handled on an Agency permit basis. In PCB 70-22, Nestle Co. v. EPA, Mr. Lawton explained his opinion which granted a variance during the construction of dry-type scrubber. A \$60,000 bond was required. The opinion was adopted. Mr. Lawton also explained the opinion in PCB 70-25, Olin Corp. v. EPA, a variance request for open-burning of explosive powder and buildings containing explosive wastes. The opinion as adopted granted the variance upon the condition of burning under maximum dispersion weather conditions.

Six new cases had been received by the Board, all of which were variance requests. Two open burning variance requests, Quincy Soybean v. EPA, PCB 70-43, and Striegel's Tree Service v. EPA, PCB 70-44, were not authorized for hearing but sent to the Agency for recommendations. Hearings were authorized for Malibu Village Land Trust v. EPA, PCB 70-45 (sewage treatment facility variance), Glenbrook Laboratories, PCB 70-46 (air pollution variance), and City of Carlinville v. EPA, PCB 70-47 (sewage treatment facility variance). No hearing was authorized in Olin Corp. v. EPA, PCB 70-48 (low sulfur fuel variance) pending Agency recommendation.

Before entering the main part of the meeting Mr. Currie questioned the Board and audience for any matters within the Board's jurisdiction. Mr. Haigland, Chairman of the Executive Board of the Issac Walton League, presented a citizen's petition requesting the Board to hold hearings on proposed thermal standards for the Mississippi River.

Discussion began on Mercury Standards, R 70-5. Mr. Dumelle summarized the proposed standard which is one half part per billion and a prohibition against dilution of effluents. Mr. Edward F. O'Toole, representing seven Illinois paint companies, presented evidence and witnesses on the use of mercury in the state. He referred to Mr. Currie's request for an industry presentation. As to the discharge of mercury laden effluent into sewers, he questioned the Board's legal authority to adopt such a standard. Mr. Currie explained two theories giving the Board the authority to regulate sewage discharge.

Mr. Harvey L. Beeferman of DeSoto, Inc., explained the use of mercury in the paint industry. Mercury compounds, primarily phenyl mercury acetate, are used for package preservation and as a film preservative preventing mildew in house paints. Non-mercurial film preservative are being used by industry in varying degrees, but no satisfactory substitute is available as a package preservative. Some non-mercurial package preservatives have been found to be more dangerous to man than mercury. Mr. Beeferman felt the proposed effluent standard was unworkably low. Instead he proposed a standard allowing a specified quantity per day per plant. Mrrrs. Kissel, Aldrich, and Currie asked several questions about previously-used fungicides and shelf life.

Mr. Douglas K. Larsen of DeSoto, Inc., explained that the company's only plant dealing with mercury had its waters treated

by sanitary district with no mercury limits. The plant had recently constructed a two system waste water treatment facility (floccluation . system and biological lagoon.) He noted neither process could meet the proposed standard. He felt a concentration limit was unfair and suggested instead that a gram per day standard was better. He noted that the activated sludge processes of most municipal sewage treatment works remove large percentages of mercury. After cross examination, he offered to propose a standard that the industry could meet. Since each plant situation is different, he felt the dilution effect of the receiving body of water should be considered. Also, he noted that most plants have no land on which to construct a lagoon. Mr. O'Toole commented that the total daily effluent discharge was in parts per million, not billion.

Representatives from the other paint companies present gave summations of their company's use of mercury and control methods for it. They all knew of no substitute for it and were trying to eliminate it wherever possible. They felt the proposed standard was not attainable. If it was enforced, they maintained that a large percentage of the paint manufacturers would go out of business. Mr. Dumelle commented that the standard was purposely tough so the industry would use substitutes and increase research. Mr. O'Toole assured the Board that the National Paint Association would cooperate in resolving the mercury problem, either by substitution of materials or finding an effective removal method.

After commenting on the paint association's lateness in coming before the Board to testify, Mr. Dumelle moved for adoption of the proposed regulation. On Dr. Aldrich's motion, the adoption of the standard was postponed until the January 20, 1971 meeting. Then, after further discussion, another hearing was authorized to obtain more information on mercury substitutes.

After a small break, the Board began consideration of a motion by intervenors in PCB 70-21, Commonwealth Edison Co., Dresden #3 Permit, Mr. Gehr, was present for Edison. As intervenor in the case, the Environmental Law Society of the University of Chicago had asked in its fourth motion for a declaratory judgment making fuel-loading and low power testing permit-required activities. Mr. Kissel, acting in his capacity as a hearing officer, took over the meeting. Lawrence D. Butterfield, Jr., an employee testifying for Edison, explained operations necessary to complete fuel loading before beginning low power testing. He stated that no radioactive gases or only insignificant amounts would be emitted during loading and testing. Mr. Byron Lee, Jr., also an Edison employee, testified that low power testing would not prohibit the subsequent installation of a radioactive gas removal system. Mr. Gehr then summed up his arguments against the fourth motion. He maintained that loading and testing did not constitute 'operation' of a nuclear steam electric generating

facility as referred to in the Act, but rather only a common pool reactor. Since the Company planned to begin fuel-loading on December 26, 1970, he felt that it would be an unreasonable hardship on the company to wait till a removal system was installed before loading and testing were permitted. Since the intervenors sought injunctive relief, he argued that they had not established any basis for an injunction.

As no substantial environmental threat had been shown, the Board concluded the meeting by granting interim permission to Edison for loading and testing of Dresden Unit #3.

I, Christan L. Moffett, Clerk of the Pollution Control Board certify that the Board adopted the above Minutes this 25th day of April, 1972, by a vote of 5-0.

Christan L. Moffett