

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING, FEBRUARY 3, 1971
NORTHEASTERN ILLINOIS UNIVERSITY - HERITAGE ROOM, DEKALB, ILLINOIS

The full Board was in attendance.

Mr. Currie discussed the cases decided by the Board on January 27. He stated that the decision in the three cases was made at an informal, although public, Board Meeting rather than a formal meeting such as the one being held today, because of the 90 day time limitation by which variance cases must be decided or automatically granted.

PCB 70-30 was a variance request by the City of Jacksonville in which the city requested to burn, in the open, diseased elm trees. The EPA filed a recommendation that the petition be dismissed on the grounds that insufficient facts were alleged in the petition so that even if all the assertions of the petition were taken to be true, the facts still did not measure up to the statutory standard for the granting of a variance, namely, imposition of an arbitrary and unreasonable hardship by the application of the regulation or law. The Board ordered the petition dismissed without prejudice to the filing of a new petition.

PCB 70-31 was a petition for variance by Owens-Illinois, Inc. which asked for more time, till May, 1971, to complete the installation of an electrostatic precipitator to control emissions from two furnaces. The Board entered an order granting the variance but restricting the operation of furnace "D", not to operate more than 45 days during the period of the variance. If it wishes to operate Furnace D after May 15, 1971 the company is to apply for a separate variance. The requirement of a bond was also part of the order. Dr. Aldrich stated that he was disturbed by some of the language of the opinion. It was discovered that he was considering a copy of the opinion as it was originally written and after he saw a copy of the opinion as it was finally written, Dr. Aldrich stated that he had no difficulty with the opinion as the troublesome language had been completely removed.

PCB 70-32 was a request for variance by the Springfield Sanitary District in which the petitioner asserted that one of its main interceptor sewers was in bad shape and had periodically been placed out of service because of breaks, during which time raw sewage was diverted into Spring Creek. The Sanitary District asked that it be allowed to divert some 6 to 10 million gallons per day of raw sewage into Spring Creek, during a period of about 45 days during which the sewer would be repaired. The EPA recommended that the request be denied. The Board issued an order

which denied the requested variance and found that the condition of the interceptor sewer constituted a threat of water pollution in violation of the statute [Sec. 12 (a) and SWB-14]. The Board stated that there was no excuse for the bypassing of raw sewage during the period of repair and further ordered that the repairs be made as expeditiously as practicable and that the District issue bonds without referendum to cover the cost of the project.

On motion of Mr. Dumelle the minutes of the Board Meetings of January 11 and 18 were approved unanimously.

Mr. Currie began a discussion of new matters, cases and rule making hearings on which the Board must decide whether to hold hearings. Mr. Currie stated that the Board in the past had decided to hold hearings on all variance requests except those which could be considered quite minor.

The first matter for consideration was R 71-3 which is a proposal for regulation concerning secondary treatment dates on the Ohio River. Mr. Currie stated that this would do for the Ohio River what was done for the Mississippi River. That is, secondary treatment was required on the Mississippi River but not until certain dates between 1977 and 1982. After hearings were held, the target dates were moved up considerably to December 31, 1973. There exists a similar situation on the Ohio River, Mr. Currie stated with some dates which go beyond 1973. Mr. Currie suggested that these dates might be accelerated. Mr. Currie moved that the proposal be approved for public hearing purposes with one amendment, to omit the phrase "the regulations found in". Mr. Dumelle seconded the motion. All members voted aye.

PCB 71-4 is a request for variance by the Lloyd A. Fry Roofing Company. The request is opposed by a letter from a citizen group. Mr. Currie indicated that no motion was required to authorize a hearing in this case because of the letter from the citizen group. A public hearing will be scheduled.

PCB 71-5, Missouri Portland Cement Company request for variance. Mr. Currie moved that a hearing be held. Mr Kissel seconded, all members voted aye.

PCB 71-6, Modern Plating Corporation request for variance. Mr. Currie stated that the petitioner of this variance was a respondent in a pending case. Mr. Currie moved to consolidate this request for variance with case PCB 70-38, Mr. Kissel seconded, all members voted aye.

PCB 71-7, Olin Corporation requested a variance for the open burning of explosive waste. Mr. Currie indicated that this was similar to a previous case in which Olin was the petitioner and

that the Board may decide to proceed without a hearing after receiving the EPA recommendation. No action was taken in this matter.

PCB 71-8, City of Mattoon request for variance. Mr. Kissel moved that the Board authorize a hearing. Mr. Lawton seconded, all members voted aye.

PCB 71-9, E. I. DuPont request for variance. Mr. Kissel stated that the subject of this request for variance was similar to the Olin request, inasmuch as they both dealt with the disposal of explosive waste by burning. Mr. Kissel moved that a hearing be authorized, Mr. Lawton seconded, all members voted aye.

PCB 71-10, Sandoval Zinc Company request for variance. Mr. Kissel stated that the assertions in the petition indicate that the precipitator presently in use does not work and the company, very likely, will have to install a wet scrubber. Mr. Kissel moved to authorize a hearing, Mr. Lawton seconded, all members voted aye.

PCB 71-11, GAF Corporation request for variance. Mr. Kissel stated that he was disturbed by the assertions in the petition which indicated that the company was discharging some 3 million gallons per day of an effluent which had a high burden of BOD. Mr. Currie moved to authorize a hearing, Dr. Aldrich seconded, all members voted aye.

PCB 71-12, 182nd Tactical Air Support Group request for variance is a case which requests exemption from the prohibition from open burning for the purposes of conducting a fire-fighting school. Mr. Currie indicated that this was very similar to a variance which had previously been requested by another military group and he moved to consider this request with no hearing. Mr. Kissel seconded, all members voted aye.

PCB 71-13, Vice Brothers request for variance and PCB 71-14, Calhoun County Contracting Corporation request for variance are similar cases, inasmuch as the petitioners are asking for permission to burn trees. Neither petition

asserts that the trees which are to be burned are diseased trees. More information should be forthcoming on both of these petitions and it was suggested that any decision on both of these cases be postponed. No action was taken.

PCB 71-15, Mt. Carmel Public Utility Company request for variance. Mr. Kissel moved to authorize a hearing, Mr. Lawton seconded, all members voted aye.

Mr. Lawton reported that in PCB 70-34 the respondent Granite City Steel Company had moved to extend the time of the ACERP. Mr. Lawton, the Hearing Officer, moved to consolidate this request for variance with PCB 70-34 and not hold a separate hearing. Mr. Kissel seconded, all members voted aye.

In PCB 70-9, Springfield City, Water, Light & Power Company v. EPA, Mr. Currie said that the Board has been informed that the precipitator at the power generating plant which is the alleged polluter in this case has not been working properly and has been taken out of service. The power company reports that material is being emitted to the atmosphere through No. 7 smoke stack and it appears necessary, to meet their power demand, that the utility will have to operate its old boilers which they had intended to retire. Since this case has not been decided and these new facts substantially change the situation detailed in the hearing, Mr. Currie moved to open the case and authorize an additional hearing so that evidence of the changed condition of the plant can be taken in the case before the matter is decided on its merits. Dr. Aldrich seconded, all members voted aye.

Mr. Kissel presented his proposed opinion in R70-3, Water Quality Standards for the Mississippi River. He stated that the regulation had already been passed and that his presentation of the opinion was a justification of the regulations which amended SWB-12 and SWB-13 to advance the target dates for secondary treatment to a new date of December 31, 1973. He stated that one of the changes the Board had decided on was to not to discriminate between the different parts of the Mississippi River, that is, the Upper Mississippi and the Lower Mississippi. He outlined the various parts of the opinion and stated that a case for the reasonableness of the regulations had been made. In discussing the opinion, Mr. Dumelle noted that the rationale of speeding up the target dates and using the best available technology was the same presently under consideration in the Effluent Standards hearings and further noted that municipal treatment plants will have to go beyond secondary treatment to nitrification of waste waters to effect ammonia removal. Mr. Kissel moved to approve the opinion as written, Mr. Lawton seconded, all members voted aye.

Mr. Currie discussed a letter he had written to Mr. William Hanley, Legislative Counsel to the Governor on the subject of amendments to the Environmental Protection Act. Mr. Currie stated that the provision in sections 38 and 40 requiring the Board to take final action in variance and permit cases within 90 days was a problem inasmuch as the period was too short and the Board would ask that the Governor request the legislature to expand that period to 120 days. The letter added that although the Board might find it desirable to have additional powers over pesticides and solid wastes in future, the Board would not request such authority this year because it had plenty to do. Mr. Currie moved to be authorized to send the letter as written, Dr. Aldrich seconded, all members voted aye.

Mr. Currie discussed a letter which he hoped to send to Mr. Murray Stein on the subject of thermal pollution to Lake Michigan. The letter

dealt with the upcoming Four State Enforcement Conference and expressed the expectation that the Board be present as a conferee and went on to outline a progress report on the thermal pollution problem as revealed in the Board's hearings on the subject.

Mr. Currie outlined the alternatives open to the Board as follows: (1) preclude no discharges. (2) allow no discharges or allow only small discharges, that is, preclude all discharges above a certain size such as those thermal discharges from operating water craft. (3) determine the input which can be tolerated by the Lake and impose a limit on that input, (4) defer decision for a few years and have the users come in and prove no harm. Mr. Currie emphasized that the Board has not come to any decision on the subject and that he proposed the letter be submitted as a summary of the problem and as a progress report. Mr. Currie suggested that the Board may come up with a proposed final draft in March and then perhaps in two weeks or a month thereafter, enact a final thermal regulation for Lake Michigan. Dr. Aldrich expressed the opinion that the problem is both extremely important and very complex. Mr. Dumelle stated that he had some difficulty with the categorical acceptance as fact of the algae residence time proposition stated in No. 10. He stated that the evidence is simply not clear on this point and that he would suggest that we tone down the certainty in that expression. Mr. Currie agreed that rather than state the proposition as absolute fact, the expression "substantial evidence exists" be put into the letter. Mr. Dumelle further expressed the opinion that he was in accord with the timing of the letter, that is, to get it out before the Conference was held, in this case about two weeks before the Conference. Mr. Dumelle thought that the usual practice of making printed copies of technical papers available only on the day of presentation was an unfair and unjustifiable burden to impose on the conferees. Mr. Dumelle also thought that the letter constituted an excellent progress report to the public on the thermal pollution problem and suggested that it be incorporated in the next edition of the newsletter. All of the other Board members agreed that it should be appended to the next newsletter. Mr. Currie expressed the opinion that there is an extraordinary degree of interest in the subject. Dr. Aldrich moved that the letter be approved with the minor amendment suggested by Mr. Dumelle. Mr. Dumelle seconded, all members voted aye.

Mr. Currie announced that the parties in case PCB 70-16 were present and desirous of discussing a proposed settlement. Mr. Fred Prillaman, representing the Environmental Protection Agency, related that the EPA had filed a complaint in November, 1970 alleging the discharge of a polluted effluent from the Allied Mills plant in Taylorville, Illinois on August 2, 1970 which resulted in a fish kill in a fork leading into the Sangamon River. Mr. Prillaman stated that at the pre-hearing conference the EPA and the respondent had entered into negotiations which led to the proposed settlement. Mr. Prillaman stated that the respondent had agreed to admit liability and had further agreed to damages in the amount of \$2,000.

Mr. Currie expressed concern over the danger of recurrence of the incident and suggested the inclusion of a cease and desist provision in the order.

Mr. Prillaman stated that it was his understanding that a project to prevent recurrence of the oil spill which caused the fish kill was complete and that there would be no possibility of a recurrence.

There was some discussion by the parties and the Board on whether or not there could be a recurrence of the incident. Mr. Currie suggested

the incorporation of a paragraph stating that the bypass was never to be opened. In lieu of cementing the bypass closed with concrete, Mr. Currie suggested that the bypass be cemented with a paragraph in the agreed order. He further suggested that the parties get together, redraft the order and send it to the Board and the Board will act on it.

Mr. Dumelle suggested that the Board's charge of \$20. for copies of the Implementation Plan was a hardship to many members of the public who wish to inform themselves about the plan and he suggested that the plan be available at no charge. Mr. Currie stated that while he agreed with Mr. Dumelle as to the desirability of making the implementation plan as widely available as was possible, he was constrained to impose the charge as it represented the actual reproduction cost of the plan and that the Board was not in a position to distribute such a high cost item in a frivolous way. It was suggested to make the plan available at a cost of either \$2. or \$5. Several members expressed the opinion that the \$5 cost would be good inasmuch as it would very likely eliminate the frivolous request but would serve to make the plan more widely available. Mr. Currie moved that the plan be made available at \$5 and all members voted aye.

The case of the variance request by the City of Carlinville was brought up and it was stated that the EPA had recommended dismissal of the petition, inasmuch as insufficient facts to permit the Board to grant the variance, even if all the facts were true, were alleged. Mr. Currie said that he would like to postpone consideration of the matter since supplemental information was forthcoming from the City of Carlinville.

Mr. Currie asked for questions or comments from the people in attendance and stated that the Board was interested in hearing, as they went about the State, what was on peoples' minds as regards to pollution. The Board was interested in finding out what was wrong with the Board and was interested in any other citizen comments.

Mr. Fred Rolf, Chairman of the DeKalb Air and Water Pollution Commission asked for comment as to whether the Board felt local groups should attack local problems or whether they should leave it to State agencies. Mr. Rolf stated that the goal of the DeKalb Commission was to try to do the job themselves and not look to State agencies where they could solve local problems. Mr. Currie stated that he personally was in favor of the approach taken by Mr. Rolf and would encourage it. Mr. Dumelle also commented favorably and further stated that if the local Commission had a particularly tough situation they were, of course, free to bring an action before the Board. Mr. Currie also stated that although it was a desirable thing to have a local group working on local problems, it was also a good thing to have a State agency that could come in and solve a problem which appeared to create too much of a demand upon the local agency. This concluded the morning session of the meeting.

The afternoon session of the meeting ran from approximately 1:00 to 3:40 p.m. and was a discussion prepared by Dr. Aldrich of agricultural waste. Dr. Aldrich introduced the four principal speakers and outlined their presentation. A complete written transcript of this informational part of the meeting was made by the court reporter present.

I, Regina E. Ryan, certify that the Board has approved the
above minutes this *17th* day of *February*, 1971.

Regina E. Ryan
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Clerk of the Board