

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF FORMAL MEETING - June 23, 1971
Chicago Circle Campus, 750 South Halsted Street, Chicago, Illinois

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

As all parties had not arrived to argue an emergency motion in GAF Corp. v. EPA, PCB 71-11S, the case was put over. After an explanation by Mr. Kissel of additional interim measures and amendments of language discussing garbage grinders and odor problem control suggestions by the City of Highland Park, the Board adopted (5-0) the opinion in League of Women Voters et al v. North Shore Sanitary District, PCB 70-7, 12, 13, 14. Mr. Kissel went on to explain his opinion in Spartan Printing Co. v. EPA, PCB 71-19, which required installation of a two phase sewage treatment system and imposed a penalty of \$10,000.00. One procedural point was handled by the opinion concerning the surprise issue in relation to the use of a witness list. Mr. Dumelle dissented from the adoption vote (4-1) of the opinion contending that a penalty of \$25,000 should have been imposed for the company's delay in construction times and its not coming before the Board for a variance. Mr. Currie then explained his opinion in a sanitary landfill case, EPA v. Clay Products Company, PCB 71-41. Again Mr. Dumelle dissented from the adoption vote (4-1) contending that the \$500 penalty was too low and that \$3,000 would have been more appropriate. The opinion in Olin Corp. v. EPA, PCB 71-60, was adopted (5-0) and explained the Board's order of June 16, 1971, which had been adopted early to meet the 90 day rule.

The 90 day rule was waived and no transcript had yet been received in Roesch Enamel & Manufacturing Co. v. EPA, PCB 71-62. In reference to the 90 rule, Mr. Kissel noted that the Board should seek legislative help to extend it to 120 days. Mr. Currie dissented from the adoption vote (4-1) in Village of Deerfield v. EPA, PCB 71-63, maintaining that a grant of an open burning variance in a case where the closest residence was only 500 feet away was not consistent with an earlier Board denial of such a request when the distance was 1000 feet. After Mr. Dumelle passed around copies of his corrected opinion in City of Carthage v. EPA, PCB 71-65, the Board adopted it (5-0).

All parties, namely representatives for the Attorney General, the Agency, and GAF, were then ready to present the motion in GAF Corp. v. EPA, PCB 71-11S. The Agency contended that because of improper notice the testimony given on June 21, 1971 in the instant matter should be stricken from the record; however, the Board felt

all parties had had adequate notice and overruled the objection. After brief arguments, Mr. Currie summed up the Board members' views in an order which stated that: 1) A ninety-day variance was granted the company; 2) a hearing would be set for the supplemental petition; 3) the merits of the previous variance case, PCB 71-11, would not be settled by this present order; and 4) all parts of the April order would remain intact so that the integrity of the order was maintained while the case was being appealed. Mr. Dumelle dissented from the vote on the order (4-1) maintaining that the company should be open to prosecution for future violations.

Mr. Lawton's opinion in Phelps Dodge Aluminum Products Corp. v. EPA, PCB 71-66, which granted the company a six-month variance, was adopted (5-0). The Board denied (5-0) an open burning variance in Tom Hewerdine, Inc. v. EPA, PCB 71-70. Mr. Aldrich's opinion stated that the petitioner could come back and petition over after investigating alternate methods of disposal.

The Board then turned its attention to rule-making matters. In R70-16, Mississippi Thermal Standards, Mr. Dumelle noted that the USEPA was sending the Board a letter stating that the Board did not have to adopt a standard immediately. And as Mr. Kissel felt he wanted more time to evaluate the increase in in temperature for long stretches of the river, the case was put over till the following Monday meeting as was the companion case, R71-12, Ohio Wabash Thermal Standards. The Board voted (5-0) to authorize hearings in R71-17, Emission Standards for Hydrocarbons, Carbon Monoxide, and Oxides of Nitrogen from Stationary Sources. Mr. Dumelle noted in R71-18, Air Pollution Permits, that the administrative burden on the Agency might be too heavy if an Agency stack test were required, and that an accepted trade association test might be better. Hearings were authorized (5-0).

The Board discussed one legislative matter. In relation to H.B. 2059, Mr. Kissel noted that the chairman should write a letter to all senators expressing the Board's vehement opposition to replacing present appellate court review of Board cases with circuit court review. Mr. Currie agreed to write the letter.

The Clerk was directed to check the minutes of May 26, 1971, to determine if a hearing was authorized in PCB 71-121, City of Monmouth v. EPA. The Board reconsidered its original action in PCB 71-130, Chicago-Dubuque Foundry Corp. v. EPA, and voted to dismiss the case (5-0).

New cases for authorization of hearings were then considered.

PCB 71-137, EPA v. Steelco Chemical Corp. & K.A. Steel Chemicals, Inc. A hearing is mandatory.

PCB 71-138, Western Land Planning Co. v. EPA. A hearing was authorized.

PCB 71-139, Julius L. Bogнар v. Steelco Chemical Co. The case was consolidated with PCB 71-137.

PCB 71-140, Caterpillar Tractor Co. v. EPA. The Board dismissed the petition without prejudice for failure to comply with the requisites for filing a petition for variance. Mr. Currie was to write the opinion.

PCB 71-141, Getz Fire Equipment Co. v. EPA. No hearing was authorized pending an Agency recommendation.

PCB 71-142, Donald G. Nickel d/b/a Nickel Bros. Tree Service v. EPA. No hearing was authorized pending an Agency recommendation.

PCB 71-143, City of Rochelle v. EPA. The petition was dismissed as inadequate.

PCB 71-144, City of Morrison v. EPA. No hearing was authorized pending an Agency recommendation.

PCB 71-145, Westclox Div. of General Time Corp. v. EPA. A hearing was authorized.

PCB 71-146, Montgomery & Countryside Fire Protection v. EPA. No hearing was authorized pending Agency recommendations.

PCB 71-147, Lisle Fire Protection District v. EPA. No hearing was authorized pending an Agency recommendation.

PCB 71-148, Chicago Rawhide Manufacturing Co. v. EPA. No hearing was authorized pending an Agency recommendation.

PCB 71-149, Andracki et al v. EPA. A tentative hearing was authorized.

PCB 71-150, Effingham Equity v. EPA. A hearing was authorized even though the petition was deemed inadequate.

PCB 71-151, Charles & Frances Hughes v. EPA. A tentative hearing was authorized.

PCB 71-152, Lemont Fire Protection District v. EPA. No hearing was authorized pending an Agency recommendation.

PCB 71-153, Libby, McNeill & Libby v. EPA. A hearing was authorized.

PCB 71-154, Pyramid Mobile Estates, Inc. v. EPA. A hearing was authorized.

PCB 71-155, The American Distilling Co. v. EPA. A hearing was authorized.

PCB 71-156, Rondall F. Ramsey v. Corn Products Co. A hearing was authorized for this citizen complaint case.

PCB 71-157, EPA v. City of Silvis. A hearing is mandatory.

Mr. Currie had a yes vote recorded in the following cases:

PCB Nos.: 70-9, 70-41, 70-56, 71-23, 71-28, 71-29, 71-30, 71-31, 71-36, 71-47, 71-54, 71-55, and 71-56.

R Nos.: 70-2, 70-12, 71-11, 71-13 and 71-16.

Mr. Currie then announced cases in which the Board had recently made a decision. The meeting was adjourned at 12:00 noon.

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