

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF FORMAL MEETING, December 9, 1970  
Circle Campus, 750 So. Halsted St., Chicago, Illinois

Mr. Kissel was absent on Board business.

Minutes of Board meetings for the dates of September 25, October 19 and 28, November 2, 9, 10, 16, and 24 were approved without alterations. A schedule for formal board meetings was then adopted for January 6, thru June 23, 1971. The motion was amended upon Mr. Dumelle's suggestion that the Board comply with the Illinois Public Meetings Act which requires a schedule of meetings for a year in advance. The Board scheduled PCB 70-41, Norfolk & Western Railway Co. v. EPA, for hearing. The petitioner requested an air pollution variance for the company's Decatur shops. Two cases seeking burning of diseased trees were not scheduled for hearing pending Agency recommendations (PCB 70-40, City of Du Quoin v. EPA, and PCB 70-42, City of Herrin v. EPA.) Since PCB 70-39, EPA v. John T. LaForge Co. was an enforcement action, a hearing was already scheduled. Two public requests for public hearings in rule-making cases were received by the Board. After discussion they were scheduled for hearing. One was R70-12, Des Plaines Water Quality Standards, seeking tertiary treatment on the Des Plaines River. The other, R70-13, Airport Noise Standards, was filed by Campaign Against Pollution seeking regulations imposing noise standards for Chicago area airports.

After a general discussion on R70-3, Water Quality Standards for the Mississippi River, the Board voted to publish the proposed final draft. Minor corrections were made which include appropriate language indicating that the standards apply to both municipal and industrial wastes, a provision to include towns of exactly 10,000 persons, and a clause repealing SWB-4. Additional language was added in the industrial section to vary the percentage waste removal for different type industries. Also the Board voted to publish the proposed final draft for R70-6, Phosphate Standards. A minor addition was made to include 'PO<sub>4</sub>' and 'phosphorus'. Dr. Aldrich then indicated he wanted to add an explanatory statement for alternate phosphorus removal methods to the Board's opinion to be adopted.

Mr. Currie moved that the Board adopt his letter to be sent to the Agency delegating to it the authority to grant preferential tax treatment for pollution control facilities. By statute, the Board was given the duty to do so but the Chairman may delegate such authority and the Board voted to do so. Action was then taken to send a letter in PCB70-20, Deere & Co. v. EPA, an open burning variance request for fire-fighting training. Additional information was requested to assure minimal smoke emission and that proper fire-fighting techniques are used.

Mr. Lawton discussed his opinion in PCB70-2, EPA v. J.M. Cooling,

in which the Agency charged open burning and improper refuse disposal violations. After discussing the reasons for the penalty, Mr. Lawton explained an important procedural point: the respondent's attorney moved for a continuance because he had only been hired for the case two days before the hearing. The opinion explained that allowance of this type continuance would seriously inconvenience the Board's hearing program. The opinion was adopted 4-0. In an episode regulation case, R70-7, Air Pollution Episodes, Mr. Currie explained his opinion. It states the reasons and justifications for the Board's adoption of a revised set of episode regulations. Alert values were modified and a more forceful method of procuring individual alert action plans from industry sources was added. The revised regulations allow the Agency to utilize the services of local air pollution control agencies. The National Air Pollution Control Administration asked for amendments so the plan would conform to the NAPCA's standards, but the Board decided to schedule them for latter hearings. The Board adopted the opinion 4-0. Two minor amendments were added changing the wording for deaths caused by pollution.

Discussion then centered on the status of the implementation plans for the Chicago and St. Louis areas. Argonne National Laboratory's evaluation of the Air Pollution Control Board's proposed episode regulations of February, 1970, showed a total inadequacy. Mr. Currie explained that new implementation measures need to be taken to meet air quality regulations and that it might be necessary to restrict the use of coal in certain areas of Chicago depending upon the availability of natural gas. Mr. Dumelle then suggested that in view of Mr. Klassen's (Agency director) letter of November 18, 1970, indicating a lack of personnel and monitoring equipment to effectively carry on control operations, the City of Chicago's Department of Environmental Control be utilized and the Board take whatever steps may be necessary to help the Agency alleviate the problem.

Mr. Lawrence Spears of the Environmental Law Society of the University of Chicago made four motions to the Board as an intervenor in PCB 70-21, Commonwealth Edison Co, Dresden #3 Permit: 1) motion that the Board lacked jurisdiction to proceed with a hearing prior to the completion of all prehearing conditions, 2) motion to dismiss the application of Commonwealth Edison, 3) motion for entry of order revoking Dresden Permit No. 1960J-339-1 issued by the Sanitary Water Board in September, 1966, and 4) emergency motion for an order declaring that any fuel loading and/or low power testing of a nuclear facility constitutes "operation" within the meaning of Title VI-A of the Environmental Protection Act. He then proceeded to explain the grounds for his motions. Mr. A. Daniel Feldman of Isham, Lincoln, and Beale, representing Commonwealth Edison, argued in opposition to the motions.

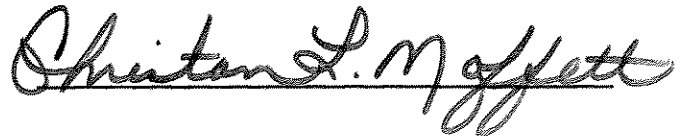
Mr. Currie suggested the Board wait for the hearing record to be developed before moving on the dismiss motion. No action was needed for the motion which essentially asked for a continuance

to permit further pre-trial procedures as it was covered in the Procedural Rules. Since the hearing officer had already overruled the motion, the Board should not interfere with that finding. Even though no one can know whether or not a public agency has intervened until the time has passed, there are measures to improve the record after a hearing due to pre-trial deficiencies. With respect to the motion declaratory judgement, Mr. Currie felt it was in the interest of both parties for the applicant to postpone loading until after the December 22nd meeting. Also, the motion to revoke the original permit should be presented to the hearing officer.

Mr. Feldman had no opposition to the fuel loading date, but said that if the company's engineers had any need for an earlier date, he would communicate it thru the hearing officer and the intervenors to the Board.

Mr. Lawton moved to dispose of the motions in accordancy with Mr. Currie's suggestions. All members voted in accord. Mr. Currie adjourned the meeting.

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