

Illinois Pollution Control Board
Minutes of Regular Board Meeting
May 26, 1971
Eastern Illinois University
Charleston, Illinois

Mr. Currie was not in attendance.

Mr. Lawton began a discussion of cases requiring decisions.

PCB 70-23, Borden Chemical Co. v. EPA. Mr. Kissel summarized his opinion and outlined the timetable required of Borden for the construction of advanced waste treatment facilities. He noted that Borden clearly must meet the effluent standards of SWB-14 but that the regulation does not specify a compliance date for industries. The Board was therefore establishing a timetable for Borden at this time. It is expected that, where necessary, the Agency will seek proper approval of timetables for other industries as soon as possible. The opinion and order had been adopted earlier, on May 24, 1971.

PCB 70-9, EPA v. City of Springfield and Springfield City Water, Light, and Power Co. Mr. Kissel explained that the Agency had filed a motion seeking leave to file an amended complaint, conforming the pleadings to the proof. The motion was filed on the date the Board's opinion in the case was handed down. The opinion denying the Agency's motion was adopted by a unanimous vote.

PCB 70-41, EPA v. Norfolk & Western Railway. Mr. Lawton outlined Mr. Currie's proposed opinion in the case. He stated that the Agency had used a standard emission factor formula in its attempt to prove a violation of the regulations governing particulate matter. The railroad had rebutted this evidence with comparative studies which indicated there was no violation. Since the Agency had not rebutted the Norfolk & Western testimony the opinion held that no violation had been proved. The Board adopted the opinion unanimously.

PCB 70-56, Tekton Corp. and Gallagher & Henry v. EPA. Mr. Kissel presented his proposed opinion granting the petitioners' request that their variance petition be dismissed without prejudice. He explained that the petitioners have received a permit from the Agency to construct sanitary sewer facilities and no longer require a variance. The opinion was adopted unanimously.

PCB 71-16, Allied Mills, Inc. v. EPA. Mr. Aldrich stated that his proposed opinion in the case was not yet ready but that he had prepared an order for the Board's consideration. He indicated that the company had sought a variance from the requirements of SWB-14 until steps could be taken to produce a satisfactory effluent. Mr. Aldrich added that Allied was not in violation of SWB-14 since the Board had not established a schedule for achieving compliance. He outlined the terms of his proposed order requiring the company to divert its waste waters to an irrigation field by specified dates. Allied would be required to comply with the advanced treatment standards contained in SWB-14 by July 1, 1972 and would be ordered to post a performance bond of \$25,000. Mr. Kissel stated

that the order should require the diversion of the company's waste waters to an irrigation field until the effluent meets the requirements of SWB-14. He added that the company should be told not to increase the concentration of its wastes beyond that on a specified date. Mr. Aldrich felt the Board must deal with the average concentration of the company's wastes. It was decided that the order would be modified to inform the company not to increase the size of its operation and thus the strength of its discharge during the variance period. The Board unanimously approved the order as amended.

PCB 71-28, EPA v. Danville Sanitary District. Mr. Dumelle summarized his proposed opinion and order. He felt that since the District had shown reasonable diligence in attempting to solve its problems no penalty should be imposed. He added that the Board would like more information as to the impact of the effluent on the Vermilion River and as to the cost and nature of permanent treatment facilities. Mr. Lawton stated that the modifications of the opinion desired by Mr. Currie had been made. Mr. Currie had sought clarification of the District's contradictory testimony concerning compliance with criteria for suspended solids by June, 1971. He had also requested the deletion of the reference to League of Women Voters v. North Shore Sanitary District on page 4 of the opinion as it's citation in this context was inappropriate. Mr. Aldrich indicated he was uncertain about the wisdom of banning new sewer connections. He felt that in this case such connections would do little harm in view of the relatively short time before compliance is achieved. He added that the effluent was not toxic in nature and that a ban might not be in the best interests of the public. Mr. Kissel asked Mr. Aldrich if he felt the same way about such bans in all cases involving overloaded sewage treatment facilities. Mr. Aldrich replied that he did not. He approved of the ban in the North Shore Sanitary District case because in that situation the effluent had immediate adverse effects on the shoreline of Lake Michigan. In the Danville and Mattoon cases it was not clear that additional damage would result. Mr. Aldrich indicated that he would not dissent from the proposed opinion but would write a supplementary statement. Mr. Kissel asked if Mr. Aldrich meant that new connections should not be banned in the present case. Mr. Aldrich replied affirmatively. Mr. Kissel then asked if Mr. Aldrich would feel the same way if a longer period of time for compliance were involved. Mr. Aldrich stated that this would depend on the use to which the receiving water were put. In any case a variance could be granted for only one year so the problem would not continue indefinitely. Mr. Kissel pointed out that three of these cases were enforcement actions, making a one-year variance inapplicable. He felt it was not sensible to object to a long period of time and not to a short period of time. Mr. Aldrich replied that a short-term effect is totally reversible and that otherwise he would feel differently. Mr. Aldrich then moved that the sewer ban be deleted from the order. The motion was not seconded. Mr. Dumelle's motion that the opinion and order be adopted as written was carried 3-1, with Mr. Aldrich dissenting.

PCB 71-29, EPA v. Sauget & Company. Mr. Aldrich outlined his proposed opinion requiring the company to cease and desist a number of practices which are in violation of the regulations pertaining to refuse disposal sites. Mr. Kissel asked if Sauget must comply with all provisions of the order immediately. Mr. Aldrich replied that paragraphs 8 and 9 did not require immediate compliance. Mr. Kissel noted that compliance with fencing regulations might take some time. Mr. Aldrich indi-

cated that the record was unclear as to what improvements were needed in this regard. The fencing now in existence may already be adequate. Mr. Kissel felt that Sauget should be given specific directions concerning what steps were to be taken. Mr. Lawton presented a suggestion made by Mr. Currie that the order be amended to indicate that proper fencing is required at every point of practicable vehicle access. Mr. Kissel felt this would be satisfactory. He noted further that Monsanto is not a party to the case and cannot be ordered to submit an affidavit. He indicated his feeling that Sauget should be asked to make an effort in good faith to secure an affidavit from Monsanto and, if this proves impossible, Sauget should report this to the Board. Mr. Dumelle felt the penalty of \$1000 was too low considering the large number of violations involved. He was also of the view that the language in the opinion concerning the imposition of lesser penalties when the respondent has not had prior warning was not a good precedent to establish. Mr. Kissel replied that the language was an accurate statement of what the Board had done in the past. Mr. Dumelle asserted that when regulations exist, no warning is necessary. Mr. Aldrich noted that refuse disposal operations provide a necessary service but are only marginally profitable. He felt the Board should not discourage this type of operation by imposing excessive penalties. Mr. Lawton suggested the opinion make clear that a schedule of fines was not being created. He also expressed Mr. Currie's wish that some explanation be given in the opinion for adding Paul Sauget as a party to the case. Mr. Aldrich's motion to adopt the opinion as amended was carried 3-1, with Mr. Dumelle dissenting.

R 71-3, Ohio River Secondary Treatment Dates. Mr. Dumelle summarized the terms of the proposed regulation and the opinion he had prepared. He pointed out that the ruling was in accord with previous action taken for the Mississippi River. The hearing record resulting from that proceeding had been incorporated into the record for the Ohio River. Both the regulation and the opinion were adopted unanimously. The regulation became effective immediately as there were no revisions to make to the initial proposal. Thus submission of a final draft was unnecessary.

R 71-11, Public and Food Processing Water Supply Use. Mr. Dumelle indicated that the proposed standard would revise existing regulations to require treated water to meet the mandatory and recommended standards for public drinking water of the U.S. Public Health Service. He noted that both the Federal EPA and the Illinois EPA endorsed the revision. The Illinois EPA requested the Board not to specify the edition of the Public Health Service standards. Mr. Dumelle asserted that this would raise a legal problem of adequate notice concerning specific standards promulgated by the Board. Although it will be necessary to revise the standards in the future, it would be better to specify the 1962 edition of the standards. Mr. Aldrich indicated that Decatur officials had expressed concern that they might be subject to enforcement action because of excessive nitrate levels in the city's water supply. Mr. Dumelle replied that the city was not the source of the nitrates and consequently would not be subject to action under this regulation. He added that the regulation should alert people in authority to investigate the source of pollutants entering their water supply and then to force the source to stop. Mr. Aldrich pointed out that in this case no point source exists. Mr. Kissel noted that the discussion reflected the difficulty of enforcing water quality standards and emphasized the need for effluent standards. Mr. Aldrich

stated that the opinion should explain how the regulation would apply to a municipality using a water supply. Mr. Dumelle agreed to amend the opinion so as to clarify the matter. Mr. Kissel noted that the language of the regulation indicates that responsibility for meeting the standards rests with the source of pollutants, not necessarily a city treating the water. The Board gave unanimous approval to the regulation and opinion as amended.

R 71-13, Amendment to Municipal Waste Facilities Timetable. Mr. Lawton explained that after scheduling a hearing in the matter the Board learned that Shawneetown discharges its sewage effluent to an intrastate tributary to the Ohio River. Thus the discharges are subject to SWB-14, not SWB-10. Mr. Kissel asked if officials of the Federal EPA agree that Shawneetown does not discharge its wastes to the Ohio River. Mr. Aldrich replied affirmatively. Mr. Currie's proposed opinion dismissing the matter and canceling the hearing was adopted by a unanimous vote.

At this time Mr. Lawton began a discussion of new cases in which the Board must decide whether to authorize hearings.

PCB 71-105, Ray Wickstrom v. EPA. Petitioner requests a variance from the Board's order in League of Women Voters et al. v. North Shore Sanitary District, PCB 70-7, 12, 13, & 14. Wickstrom seeks permission to connect a new home to the NSSD sewer lines. A motion to authorize a hearing was carried unanimously.

PCB 71-106, Walter R. Seegren v. EPA. Petitioner, a real estate developer, seeks permission to construct a sanitary sewer and to connect it to the NSSD sewerage system. A hearing was authorized with all members voting aye.

PCB 71-107, Howard & Barbara Weinstein v. EPA. Petitioner to allow the connection of a private home to the NSSD sewer lines. A hearing was authorized by a unanimous vote.

PCB 71-108, EPA v. Modern Foundry & Manufacturing Company. Respondent is alleged to have caused air pollution from operation of its foundry. Mr. Lawton indicated that a hearing is mandatory and will be held.

PCB 71-109, EPA v. Williamson County Housing Authority. Respondent is alleged to have caused water pollution by human wastes from a public housing project. A hearing will be held.

PCB 71-110, Monsanto Company v. EPA. Petitioners seeks a variance from the mercury regulations for its chlor-alkali plant. Mr. Kissel stated that nine petitions of a similar nature had been filed by the same attorneys and that these cases should be consolidated. Mr. Lawton noted that the cases do not involve paint manufacturers exclusively. He added that where it is possible to consolidate the Board should do so. All members voted aye on a motion to authorize a hearing in the Monsanto case.

PCB 71-111, Sherwin-Williams Company v. EPA. Request for a variance from the mercury regulations for the petitioner's paint-manufacturing plant in Chicago. A hearing was authorized by a unanimous vote.

PCB 71-112, Scott Volkswagen, Inc. v. EPA. Petitioner seeks permission to connect an automobile sales and service building to existing NSSD sewer lines. A motion to authorize a hearing was carried unanimously.

PCB 71-113, David S. McAdams v. EPA. Petitioner seeks a variance to connect a private home to the NSSD sewerage system. A hearing was authorized unanimously.

PCB 71-114, Graham Paint & Varnish Company, Inc. v. EPA. Request for a variance from the mercury regulations for the company's plant in Chicago. A hearing was authorized unanimously.

PCB 71-115, General Paint & Chemical Company v. EPA. Petitioner seeks a variance from the mercury regulations. A hearing was authorized by a unanimous vote.

PCB 71-116, Enterprise Paint Manufacturing Company v. EPA. Request for a variance from the mercury regulations. A hearing was authorized unanimously.

PCB 71-117, Armstrong Chemcon, Inc. v. EPA. Petitioner requests a variance from the mercury regulations. A hearing was authorized unanimously.

PCB 71-118, Jewel Paint & Varnish Company v. EPA. Request for a variance from the mercury regulations. A hearing was authorized unanimously.

PCB 71-119, Valspar Corporation v. EPA. Petitioner seeks a variance from the mercury regulations for its paint-manufacturing plant in Rockford. All members voted aye on a motion to authorize a hearing.

PCB 71-120, NL Industries, Inc. v. EPA. Request for a variance from the mercury regulations. A hearing was authorized by a unanimous vote.

PCB 71-121, City of Monmouth v. EPA. Petitioner seeks a variance from open burning regulations to dispose of trees at its landfill. A hearing was authorized unanimously.

PCB 71-122, Robert D. Charles v. EPA. Petitioner requests a variance to connect a private home to the NSSD sewer lines. A hearing was authorized unanimously.

PCB 71-123, Henry Hannah v. Minnesota Paints, Inc. Respondent is alleged to have caused water pollution at its plant in East Moline, Illinois. Mr. Lawton moved that a hearing be held. Mr. Dumelle indicated he was not certain from the language of the complaint if Hannah realizes he must bear the burden of proof in the case. Mr. Lawton stated that Hannah should be so advised, and if he fails to proceed with the case the Board would dismiss the complaint. He added that the EPA would be asked to investigate. Mr. Lawton's motion to authorize a hearing in the case was carried 4-0.

PCB 71-124, Amoco Chemicals Corporation v. EPA. Petitioner seeks a variance from open burning regulations in order to conduct fire-fighting training sessions. As in similar cases the Board decided to proceed without a hearing upon receipt of a recommendation from the EPA.

PCB 71-125, Citizens Utilities Company of Illinois v. EPA. Request for a variance from water pollution regulations to permit discontinuing operation of a lagoon at the Valley View sanitary sewage treatment plant. A hearing was authorized by a unanimous vote.

PCB 71-126, Dole Construction Company, Inc. v. EPA. Petitioner seeks a variance to connect a private home to the NSSD sewer lines. A hearing was authorized unanimously.

At this time Mr. Kissel described the contents of a letter he had drafted expressing the Board's disagreement with the federal position on improvements to the North Shore Sanitary District sewage treatment system. He outlined events leading to the drafting of the letter and briefly reviewed the North Shore Sanitary District case decided by the Board on March 31, 1971. He indicated the points in the Draft Environmental Impact Statement to which the Board was opposed and stressed the Board's concern that the District's project not be delayed any further. He stated that the letter urged William Ruckelshaus, Administrator of the Federal EPA, to reject the recommendations contained in the Impact Statement. Mr. Kissel moved that the letter be sent to Mr. Ruckelshaus as the official Board position on the matter. The motion was carried unanimously.

Mr. Aldrich presented his proposed standard for the application of plant nutrients. He noted that the goal for Illinois streams and lakes is only enough nutrients to support a desirable biota and described the adverse effects of excessive nutrients. He outlined the problems associated with monitoring sources of plant nutrients and explained why this approach had been rejected in favor of regulations on the application of nutrients. He then discussed the specific regulations contained in the proposal. He noted that nitrogen application rates would be restricted for corn only, as 80 percent of the nitrogen applied in Illinois is used for corn. Mr. Aldrich then moved that hearings on the proposal be authorized. Mr. Kissel asked what effect the adoption of the regulations would have on the state's streams. Mr. Aldrich replied that where a problem is imminent, the regulations would help to improve water quality. He stressed that the state does not as yet have a serious nitrate problem and that the regulations are meant to prevent such a problem. He added that the hearings should air the validity of the USPHS standard of 45 mg/l of nitrate for drinking water. Mr. Aldrich further indicated that the proposed limits on nitrogen application rates were a personal judgement of how to avoid a nitrate problem. The average application rate in Illinois is 125-130 pounds of nitrogen per acre. He added that much less phosphorus is used and its application has only a local impact. Mr. Dumelle complimented Mr. Aldrich on his proposal and described it as a pioneering effort. Mr. Aldrich's motion that hearings on the proposal be authorized was carried unanimously.

This concluded the morning session of the meeting.

The afternoon session was devoted to a number of informational presentations on the topic of sludge disposal.

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.

