

**MINUTES OF REGULAR BOARD MEETING
NOVEMBER 8, 1990 CHICAGO, ILLINOIS**

A.M. SESSION

All Board Members were present.

An Opinion and Order was adopted in #90-100, City of Ottawa, by a vote of 5-2. Messrs. J. Dumelle and B. Forcade dissented. (RCF)

An Opinion and Order was adopted in #90-131, City of Aurora, by a vote of 6-1. B. Forcade dissented. (RCF)

In R84-44, City of Pana Site-Specific, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. (JCM)

In R90-12, UST Update, USEPA Regulations (January 1, 1990 through June 30, 1990), a Proposal for Public Comment, Proposed Opinion and Order was adopted by a vote of 7-0. (JA)

In R90-14, UIC Update, USEPA Regulations (January 1, 1990 through August 31, 1990), a Proposal for Public Comment, Proposed Opinion and Order was adopted by a vote of 7-0. (JA)

Default Orders were adopted in these Administrative Citations by a vote of 7-0: #90-84, Everett Allen; 90-85, City of Centreville.

By a vote of 7-0, Agency motion to withdraw the complaint in #AC 89-288, Multi-County Landfill, was granted and unless already paid, Respondent was ordered to pay a \$500.00 penalty within 30 days of the date of the entry of the Order. (JCM)

Board Member J. Dumelle presented a draft Proposed Rule, Second Notice, Proposed Opinion and Order in R88-30(B), Gasoline Volatility Reduction. Motion to amend by J. Anderson and seconded by J. Marlin failed to carry by a vote of 2-5 with J. Anderson and J. Marlin for it and J. Dumelle, R. Flemal, B. Forcade, J. Theodore Meyer and M. Nardulli against it. Motion to amend by J. Marlin and seconded by J. Anderson for discussion purposes, failed to carry by a vote of 1-6 with J. Marlin for it and J. Anderson, J. Dumelle, R. Flemal, B. Forcade, J. Theodore Meyer and M. Nardulli against it. The Proposed Opinion and Order was then adopted by a vote of 7-0. J. Anderson and J. Marlin concurred. (JD)

Petitioner's motion to amend a September 17, 1987 Board Order was granted in #87-38, Department of the Army, by a vote of 6-1. J. Dumelle dissented. (JCM)

Petitioner's motion to voluntarily dismiss was granted in #88-139, John Sexton Contractors, by a vote of 7-0. (BF)

Petitioner's motion to modify an August 10, 1989 Board Order was denied in ##88-156, -168, Ensign-Bickford Company and the Trojan Corporation, by a vote of 7-0. (MN)

An Order allowing Complainant until November 26, 1990 to file its reply to Respondent's second noise report was adopted in #89-151, Brian Peter, by a vote of 7-0. (RCF)

Respondent's motions to stay hearing and for extension of time to file an Answer in #90-61, Duraco, Inc., were denied by a vote of 7-0. (JCM)

An Order directing the parties to file a signed and executed stipulation with the Board no later than November 26, 1990 or the matter will be set for hearing on the merits, was adopted in #90-66, Robinson Farm Service, by a vote of 7-0. (RCF)

An Order directing the parties to file a signed and executed stipulation with the Board no later than November 26, 1990 or the matter will be set for hearing on the merits, was adopted in #90-88, Elden Swedberg, by a vote of 7-0. (MN)

An Order directing the parties to file a signed and executed stipulation with the Board no later than November 26, 1990 or the matter will be set for hearing on the merits, was adopted in #90-91, General Electric, by a vote of 7-0. (JA)

An Order dismissing the proceedings for want of jurisdiction and directing that the docket be closed, was adopted in #90-103, J.D. Plating Works, by a vote of 7-0. (RCF)

An Order directing the parties to file a signed and executed stipulation with the Board no later than November 26, 1990 or the matter will be set for hearing on the merits, was adopted in #90-111, Seegers Grain, by a vote of 7-0. (JA)

Petitioner's motion to incorporate materials from a prior proceeding and Agency motion to file Recommendation Instantner in #90-166, City of Genoa, will be taken with the case-in-chief.

Agency motion to file Record Instantner was granted in #90-173, Earl R. Bradd, by a vote of 7-0. (JA)

An Order directing the parties to submit a filing to the Board by November 27, 1990 as to whether Respondent, Taylorville Sanitary District's Cross-Complaint filed October 22, 1990 in #90-184, Hopper Paper, is duplicitous or frivolous was adopted by a vote of 7-0. (JD)

Petitioner's motion to dismiss with leave to file a new delisting petition in the future if necessary, was granted in R90-19, Woodward Governor Company, by a vote of 7-0. (JA)

These cases were discussed and held to November 29, 1990 for further discussion or possible decision: ##88-188, Shell Oil Company; 89-184, The Grigoleit Company; 90-137, Village of Roxana; 90-162, Village of Plainfield; 90-122, City of Lockport.

In new cases these actions were taken by a vote of 7-0: 90-179, Acme Finishing Company, Inc. v. EPA, accepted for hearing and Agency motion to dismiss was denied and Petitioner's motion to file a supplemental response was granted, **Order by J. Dumelle**; 90-182, Ronald E. Tex and Susan D. Tex v. Samuel Scott Coggeshall and Coggeshall Construction Company, held for **Duplicitous/Frivolous Determination**; 90-187, Herman W. Prescott v. City of Sycamore, held for **Duplicitous/Frivolous Determination**; 90-195, Caterpillar, Inc. v. EPA, accepted for hearing, **Order by B. Forcade**; 90-196, Heico, Incorporated v. EPA, accepted for hearing, **Order by B. Forcade**; 90-197, The Celotex Corporation v. EPA, accepted for hearing, **Order by B. Forcade**; 90-198, Commonwealth Edison Company v. EPA, accepted for hearing, **Order by B. Forcade**; P90-199, Department of the Army (St. Louis District) v. EPA, accepted for hearing and parties directed to address by December 13, 1990, whether the Board has authority to waive the statutory filing fee as requested by Petitioner, **Order by B. Forcade**; 90-200, Vito Zivoli and Stella Podczerwinski v. Somebody's Bar and Restaurant, held for **Duplicitous/Frivolous Determination**; 90-201, David L. Dravis and Margo Dravis v. M & D AG, Jerry McGinn and Bert Davis, held for **Duplicitous/Frivolous Determination**; 90-202, People of the State of Illinois v. Bridgestone/Firestone, Inc., hearing mandatory; 90-203, McWhorter/Valspar Corporation v. EPA, provisional variance granted, **Order by J.C. Marlin**; 90-204, Taracorp Industries, Inc. v. EPA, provisional variance granted, **Order by J.C. Marlin**; 90-205, Cargill, Inc. v. EPA, provisional variance granted, **Order by J.C. Marlin**; 90-206, Quality Metal Finishing Company v. EPA, provisional variance granted, **Order by J.C. Marlin**; 90-207, AT&T/Montgomery Works v. EPA, provisional variance granted, **Order by J.C. Marlin**; 90-208, Taracorp, Industries, Inc. v. EPA, provisional variance granted, **Order by J.C. Marlin**; 90-209, Rockford/Counselor v. EPA, provisional variance granted, **Order by J.C. Marlin**; 90-210, Ensign-Bickford Company v. EPA, provisional variance granted, **Order by J.C. Marlin**; 90-211, Rockford/Counselor v. EPA, provisional variance granted, **Order by J.C. Marlin**; 90-212, Dresher, Inc. v. EPA, provisional variance granted, **Order by J.C. Marlin**; 90-213, Indian Refining v. EPA, provisional variance granted, **Order by J.C. Marlin**.

These Administrative Citations were received by the Board: #90-86, Roy Frietsch; 90-87, Everett Allen.

Minutes of the October 25, 1990 Board Meeting were approved by a vote of 7-0.

Minutes of the October 31, 1990 Special Board Meeting were approved by a vote of 5-0. J. Dumelle and R.C. Flemal abstained.

An Opinion and Order was adopted in #89-154, Roll Service, by a vote of 5-2. Messrs. J. Dumelle and J. Theodore Meyer dissented. (MN)(Thereafter the meeting was adjourned until 3:00 p.m.)

P.M. SESSION

All Board Members were present.

J. Anderson presented a draft Opinion and Order in #90-118, Land and Lakes Company. Motion to amend by J. Dumelle and seconded by B. Forcade carried by a vote of 4-3 with J. Dumelle, R. Flemal, B. Forcade and M. Nardulli for it and J. Anderson, J. Marlin and J. Theodore Meyer against it. The Opinion and Order was then adopted by a vote of 4-3. J. Anderson, J. Marlin and J. Theodore Meyer dissented. (JD)

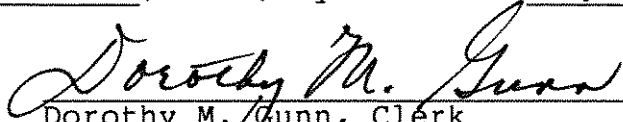
By a vote of 7-0, an Order directing the Agency to provide the Board with confirmation of proof of service on the executor of respondent's estate by November 27, 1990 and ordering the parties to file comments on the issue of substituting the respondent's estate, upon the death of the respondent in an administrative citation proceeding was adopted in #AC 89-231, Leon Lamet. (BF)

By a vote of 7-0, an Order was adopted pursuant to a motion to reverse a Hearing Officer's Order filed by the 35th District Environmental Task Force in #89-177, CWM Chemical Services. (JA)

An Order granting Petitioner's motion for expedited decision in so far as the Board is able to expedite its decision consistent with other proceedings already before it and denying Petitioner's motion for entry of a protective order was adopted in #89-72, Olin Corporation, by a vote of 7-0. (BF)

All other matters not disposed of as listed were ordered held to November 29, 1990 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 29th day of November, 1990, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
NOVEMBER 8, 1990 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

DECISIONS:

- 87-191 Lefton Iron & Metal (JD) _____
- * 90-100 City of Ottawa (RF)(due 2/7) _____
- * 90-118 Land and Lakes (JA)(due) _____
- * 90-131 City of Aurora (RF)(due) _____
- R84-44 City of Pana Site-Specific, Adopted Rule, Final Order,
Opinion and Order (JCM) _____
- R88-30 Gasoline Volatility Reduction, Proposed Rule, Second
(B) Notice, Proposed Opinion and Order (JD)

- R90-12 UST Update (January 1, 1990 through June 30, 1990),
Proposal for Public Comment, Proposed Opinion and Order
(JA) _____
- R90-14 UIC Update, USEPA Regulations (January 1, 1990 through
August 31, 1990), Proposal for Public Comment, Proposed
Opinion and Order (JA) _____

AC DECISIONS:

- 90-84 Everett Allen _____
- 90-85 City of Centreville _____

* INDICATES VARIANCE OR PERMIT APPEAL

AC MOTIONS:

- 89-231 Leon Lamet - Agency motion to substitute Respondent's Estate as party respondent and to set for hearing (10/12)(JCM)
-
- 89-288 Multi-County Landfill - Agency motion to withdraw complaint (10/30), Respondent's motion to dismiss Administrative Citation (10/31)
-
- 90-27 Johnson Blackwell - Agency motion to reconsider and vacate August 30, 1990 Order (10/5), Agency motion to file corrected motion to reconsider August 30, 1990 Order (10/29)
-
- 90-40 Steve Zimmerman - Respondent's motion to dismiss (7/27), County of Tazewell's response to Respondent's motion to dismiss (9/21), Agency response to August 30, 1990 Board Order (10/30)(JA)
-
- 90-41 City of Alton - Complainant's motion to voluntarily dismiss (11/2)
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MOTIONS:

- 86-3 City of Oglesby - Petitioner's motion for reconsideration of June 7, 1990 Board Order and Amended Petition (6/29), Agency's response to Petitioner's motion for reconsideration (9/6), Petitioner's reply to Agency's response and motion for leave to file Exhibit B in reply to Agency's response (10/3)(JA)
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- 86-59 Village of Round Lake Beach - Petitioner's motion for clarification of September 11, 1986 Board Order (10/26)(RF)
-
- 87-38 Department of the Army - Petitioner's motion to amend September 17, 1987 Board Order (10/29), Agency response in opposition to Petitioner's motion to amend Board Order (11/5)(JCM)
-
- 87-150 Natural Gas Pipeline - agreed motion to stay expiration of permit by rule in connection with dismissal of appeal (11/7)
-
- 88-60 Sonoco Products - Petitioner's motion for extension of time (10/29), Agency motion to reject request for extension (11/5)(JD)
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MOTIONS: (Cont'd)

- 88-139 John Sexton Contractors - Petitioner's motion to voluntarily dismiss (11/2)(BF)
-
- 88-156) Ensign-Bickford - Petitioner's motion to modify August
88-168) 10, 1989 Board Order (10/11), Agency response to motion
 modify (10/30)(MN)
-
- 89-19 Daniel & Helen Lorden - Complainants substitution of attorneys and motion for reconsideration of September 27, 1990 Board Order (10/31)(MN)
-
- 89-151 Brian J. Peter - Respondent's response to August 30, 1990 Board Order (11/1)(RF)
-
- 89-177 CWM Chemical Services - motion to reverse Hearing Officer's Order filed by 35th District Environmental Task Force (10/25), Petitioner's response to motion to reverse Hearing Officer's Order (11/1), 35th District Environmental Task Force's motion for leave to file reply to Petitioner's response (11/7)
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- 89-184 Grigoleit Company - Petitioner's motion for sanctions, contempt and other relief (8/13), Respondent's response to motion for sanctions, contempt and other relief (8/27), Petitioner's response to motion to file instanter and motion to strike the Respondent's response to Petitioner's motion for sanctions, contempt and other relief and request for other relief (9/4), Agency response to Petitioner's motion to strike (9/7), Hearing Officer response to August 30, 1990 Board Order (9/12), Petitioner's reply to Hearing Officer's response (9/20), Agency reply to Hearing Officer's response (9/21)(JA)
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- 90-53 Industrial Fuels - Petitioner's motion for reconsideration of September 27, 1990 Opinion and Order (10/31)(JA)
-
- 90-61 Duraco, Inc. - Respondent's motion to stay hearing (10/12)
-
- 90-66 Robinson Farm Service - Board Order (RF)
-
- 90-88 Eldon Swedberg - Board Order (MN)
-
- 90-91 General Electric Corporation - Board Order (JA)
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MOTIONS: (Cont'd)

- 90-103 J & D Plating Works - Board Order (RF)
-
- 90-111 Seegers Grain - Board Order (JA)
-
- 90-126 Marathon Petroleum Company - agreed motion for
consideration of partial settlement agreement (11/1)
-
- 90-166 City of Genoa - Petitioner's motion to incorporate
materials from prior proceeding (10/25), Agency motion
to file Recommendation Instanter (11/7)(RF)
-
- 90-173 Earl R. Bradd - Agency motion to file Record Instanter
(10/31)(JA)
-
- 90-183 Gallatin National Company - Objection (10/31),
Petitioner's response to October 31, 1990 Board Order
(11/2)(MN)
-
- 90-184 Hopper Paper Division - (See Taylorville Sanitary
District's Answer to Complaint and Third Party Complaint
filed 10/22)
-
- R90-19 Woodward Governor Company - Petitioner's response to
September 13 and October 11, 1990 Board Orders
(10/24)(JA)
-

DISCUSSIONS:

- * 88-188 Shell Oil Company (JD)(due 11/29)_____
- * 89-184 The Grigoleit Company (JA)(due 11/29)_____
- * 90-137 Village of Roxana (JTM)(due 11/29)_____
- * 90-162 Village of Plainfield (RF)(due 11/29)_____

NEW CASES:

- 90-179 Acme Finishing Company, Inc. v. EPA (See also Agency motion to dismiss filed 10/9, Petitioner's response to Agency motion to dismiss filed 10/15 and Petitioner's motion for leave to file a supplement to Petitioner's response to Respondent's motion to dismiss filed 11/5)(JD)_____
- 90-182 Ronald E. Tex and Susan D. Tex v. Samuel Scott Coggeshall and Coggeshall Construction Company (See Respondent S. Scott Coggeshall's motion to dismiss filed 10/31 and Coggeshall Construction Company's motion to dismiss filed 10/31)_____
- 90-187 Herman W. Prescott v. City of Sycamore (See also Respondent's motion for extension of time to file motion to strike and dismiss complaint as Frivolous filed 10/29)_____
- 90-195 Caterpillar, Inc. v. EPA (BF)_____
- 90-196 Heico, Incorporated v. EPA (BF)_____
- 90-197 The Celotex Corporation v. EPA (BF)_____
- 90-198 Commonwealth Edison Company v. EPA (BF)_____
- 90-199 Department of the Army (St. Louis District) v. EPA (See also Petitioner's request for waiver of filing fee filed 11/2)_____
- 90-200 Vito Zivoli and Stella Podczerwinski v. Somebody's Bar and Restaurant_____
- 90-201 David L. Dravis and Margo Dravis v. M & D AG, Jerry McGinn and Bert Davis_____
- 90-202 People of the State of Illinois v. Bridgestone/Firestone, Inc._____
- 90-203 McWhorter/Valspar Corporation v. EPA (Provisional Variance) (JCM)_____
- 90-204 Taracorp Industries, Inc. v. EPA (Provisional Variance) (JCM)_____

NEW CASES: (Cont'd)

- 90-205 Cargill, Inc. v. EPA (Provisional Variance) (JCM)

- 90-206 Quality Metal Finishing Company v. EPA (Provisional Variance) (JCM)

- 90-207 AT&T/Montgomery Works v. EPA (Provisional Variance) (JCM)

- 90-208 Taracorp, Industries, Inc. v. EPA (Provisional Variance) (JCM)

- 90-209 Rockford/Counselor v. EPA (Provisional Variance) (JCM)

- 90-210 Ensign-Bickford Company v. EPA (Provisional Variance) (JCM)

- 90-211 Rockford/Counselor v. EPA (Provisional Variance) (JCM)

- 90-212 Dresher, Inc. v. EPA (Provisional Variance) (JCM)

NEW AC CASES:

- 90-86 Roy Frietsch _____
- 90-87 Everett Allen _____

MINUTES:

- October 25, 1990 _____
- October 31, 1990 (Special Board Meeting) _____

PENDING CASES ASSIGNED:

* 85-140 Citizens Utilities (Remand)(MN)
* 85-166 Citizens Utilities (JTM)(open waiver)
86-1 City of Peru CSO (JTM)
86-2 City of LaSalle CSO (JTM)
86-56 Trilla Steel Drum (Remand)(BF)
86-161 Elizabeth Street Foundry (JD)
* 86-180 The Ceco Corporation (JTM)(open waiver)
* 87-131 Amerock Corporation (JTM)
AS 88-2 Stepan Company (JM)
* 88-25 Modine Manufacturing (JA)(open waiver)
* 88-78 Abbott Laboratories (BF)(open waiver)
88-98 IBP, Inc.
88-139 John Sexton (Remand)(BF)
* 88-193 General Motors Corporation (JD)(open waiver)
* 88-195 McLean County Disposal (JTM)(open waiver)
AS 89-2 Elizabeth Street Foundry (JD)
AS 89-3 The Nutrasweet Company (BF)
89-61 Thomas Fredette (JCM)
89-64 Gallagher Asphalt (BF)
89-94 Reichhold Chemicals (Remand)(BF)
89-151 Brian J. Peter (RF)
89-154 Roll Service, Inc. (MN)
AC 89-156 John Gordon (BF)
89-157 Clybourn Metal Finishing Company (JD)
89-158 Gilbertson Clybourn (BF)
89-169 John & Jean Zarlenga (JA)
89-179 Tony & Patricia Martin (MN)
89-205 Vito Zivoli (MN)
AC 89-215 Omer Thomas (BF)
AC 89-258 Donald Taylor (BF)
AC 89-268 William and Betty Jayne (BF)
90-12 Hysan Corporation (MN)
AC 90-36 ESG Watts, Inc. (JTM)
AC 90-38 Harold Fults (JD)
AC 90-40 Steve Zimmerman & Waste Limited (JA)
AC 90-42 Robert Wheeler (BF)
* 90-46 Rockford Drop Forge (MN)(due 12/20)
90-59 Michael L. Christianson (RF)
90-66 Robinson Farm Service (RF)
90-88 Eldon Swedberg (MN)
90-91 General Electric Corporation (JA)
90-102 State Oil Company (JTM)
90-103 J & D Plating Works (RF)
90-108 Joseph & Pamela Stratton (JD)
90-111 Seegers Grain Company (JA)
* 90-122 City of Lockport (JCM)(due 1/24)
90-135 The Grigoleit Company (BF)
90-139 Illinois Valley Paving Company (JA)
* 90-142 Pulitzer Community Newspapers (due 12/20)
* 90-163 D & L Landfill, Inc. (BF)(due 12/20)
* 90-166 City of Genoa (RF)(due 12/10)
* 90-167 City of Morris (RF)(due 2/7)

PENDING CASES ASSIGNED: (Cont'd)

- * 90-173 Earl R. Bradd (JA)(due 1/10)
- * 90-183 Gallatin National Company (MN)(due 1/24)
- * 90-194 Village of Seneca (JCM)(due 2/7)

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
NOVEMBER 8, 1990 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ADDENDUM

DECISIONS:

89-154 People of the State of Illinois v. Roll Service,
Inc. (MN) (Stip)

AMENDED PETITION:

89-72 Olin Corporation (filed 11/7)(See also Application
for Non-Disclosure)

NEW CASES:

90-213 Indian Refining v. EPA (Provisional Variance) (JCM)
