

**MINUTES OF REGULAR BOARD MEETING
MAY 10, 1990 CHICAGO, ILLINOIS**

All Board Members were present.

Board Member B. Forcade presented a draft Opinion and Order in #88-71, Allen Barry. After a very extensive discussion regarding the legal aspects of the penalty by J. Anderson, the Opinion and Order was adopted by a vote of 7-0. J. Anderson concurred.
(BF)

Chairman Marlin presented a draft Opinion and Order in #AC 89-18, J & R Landfill. Motion to reaffirm the votes recorded on the individual Counts in this matter at the Board's April 26, 1990 meeting by J. Theodore Meyer was granted by a vote of 7-0. An Order was then adopted by a vote of 4-3 with respect to Count A, a vote of 4-3 with respect to Count B, a vote of 7-0 with respect to Count C, and a vote of 4-3 with respect to Count D. (JM)

An Opinion and Order was adopted in #89-162, Family Enterprises, by a vote of 7-0. (MN)

An Interim Opinion and Order was adopted in #89-170, Centralia Environmental Services, by a vote of 7-0. (MN)

In R88-5(B), Procedural Rules (Parts 102 and 106; Subparts D, E, and F), an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. (JTM)

In R88-14, Pharmaceutical Manufacturing Plant, a Proposed Rule, Second First Notice, Opinion and Order was adopted by a vote of 7-0. (JD)

In R88-25, City of Havana, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. (MN)

In R89-16(A), RACT Deficiencies, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. (JD)

By a vote of 7-0, a Default Order was adopted in this Administrative Citation: #90-22, Waste Management. (Since J. Theodore Meyer's return to the meeting, after a ten minute break was delayed, the meeting resumed with the discussion portion of the Agenda)

This case was discussed and held to May 24, 1990 for further discussion or possible decision: #90-21, Village of Yorkville.

This regulatory matter was discussed and held to May 24, 1990 for further discussion or possible decision: R88-26, Safe Drinking Water Act Regulations, Adopted Rule, Final Order, Opinion and Order.

In new cases these actions were taken by a vote of 6-0: ##90-59, Michael L. Christianson v. The American Milling Company, accepted for hearing; 90-85, People of the State of Illinois v. George M. Eliopoulos, d/b/a Ellis Cleaners, hearing mandatory; 90-86, Container Corporation of America v. EPA, accepted for hearing and Board notes that this proceeding seems to present primarily an issue of law regarding whether Section 215.245 is stayed during any appellate court review, and as such, it may be appropriate for either party to file a motion for summary judgment, with legal briefs, to dispose of some or all of the issues in this matter, **Order by B. Forcade**; 90-87, People of the State of Illinois v. Jernberg Industries, Inc., hearing mandatory; 90-88, People of the State of Illinois v. Eldon Swedberg, d/b/a Eldon Swedberg Swine Farm, hearing mandatory; 90-89, EPA v. Fred Johnson, Herman Loeb and Johnson and Briggs Tank Truck Service, a/k/a Johnson and Briggs Tank Truck and Heater Service, hearing mandatory; 90-91, People of the State of Illinois v. General Electric Corporation, hearing mandatory; 90-92, People of the State of Illinois v. Lennon Wallpaper Company, hearing mandatory; 90-93, People of the State of Illinois v. Magnaflux Corporation, hearing mandatory; 90-94, Horace File et al. v. D & L Landfill, Inc. and Bond County Board of Supervisors, accepted for hearing, **Order by B. Forcade**; 90-95, ESG Watts, Inc. v. EPA, accepted for hearing, **Order by B. Forcade**; 90-96, Aero Services International, Inc. v. EPA, provisional variance granted, **Order by J. Marlin**; 90-97, American Nickeloid Company v. EPA, provisional variance granted, **Order by J. Marlin**; 90-98, People of the State of Illinois v. Aggrecon Corporation, hearing mandatory.

Because Petitions for Review were received, a hearing will be set in these Administrative Citations: ##90-26, ESG Watts, Inc.; 90-28, Arthur Miller.

By a vote of 7-0, Complainant's motion for withdrawal of violations 2 and 4 alleged in Administrative Citation #90-25, Robert Ellis, was granted and unless already paid, the Respondent was ordered to pay, within 30 days of the entry of this Order, a civil penalty of \$1,000.00 for the remaining two (2) violations. (JM)

By a vote of 7-0, the Board reconsidered and reaffirmed its April 12, 1990 Order to treat Petitioner's request for extension of variance as a motion for extension of variance in #88-69, Scott Air Force Base. J. Dumelle concurred. (BF)

By a vote of 7-0, an Order was adopted pursuant to Petitioner's motions for extension of variance in #88-69, Scott Air Force Base. J. Dumelle concurred. (JA)

By a vote of 5-2, Agency motion for extension of time to respond to Petitioner's motion for reconsideration was granted until May 18, 1990 in #88-151, Citizens Utilities. Messrs. R. Flemal and

J. Theodore Meyer dissented. (JA)

By a vote of 7-0, Respondent's motion for hearing in #89-64, Gallagher Asphalt, was granted and the Board reiterated its specific intention that the noise violations already found shall not continue for another construction season through the summer of 1990. J. Marlin concurred. (BF)

By a vote of 7-0, an Order was adopted pursuant to Respondent's motion to exclude certain evidence admitted at hearing in #89-182, Robert & Alice Kvatsak. (BF)

Petitioner's motion to file response to Agency Recommendation Instanter was granted in #89-183, City of Batavia, by a vote of 7-0. (JM)

Petitioner's motion for reconsideration or in the alternative for leave to file an Interlocutory Appeal was denied in #89-184, The Grigoleit Company, by a vote of 7-0. (JM)

Petitioner's motion to withdraw appeal was granted in #90-35, Pollution Control Industries, by a vote of 7-0. (BF)

Petitioner's motion to dismiss permit appeal was granted in #90-36, H & L Disposal Company, by a vote of 7-0. (BF)

By a vote of 7-0, an Order was adopted pursuant to Petitioner's motion to withdraw its appeal in #90-40, Waste Management. (BF)

By a vote of 7-0, an Order was adopted pursuant to Petitioner's motion to supplement its petition for variance in #90-45, Minnesota Mining and Manufacturing Company. (RF)

Petitioner's motion for reconsideration of a March 8, 1990 Opinion and Order was denied in R87-35, City of East Moline Site-Specific, by a vote of 7-0. (JA)

By a vote of 7-0, an Order was adopted pursuant to Petitioner's motion for reconsideration of a March 8, 1990 Opinion and Order and motion to substitute Affidavit of James A. Huff in R87-35, City of East Moline Site-Specific. (JA) (Thereafter the Board gave leave to J. Theodore Meyer to join with the majority on votes taken in New Cases during his absence from the meeting and the Orders adopted in his absence will reflect 7-0 votes)

Minutes of the April 26 and May 2, 1990 Board Meetings were approved by a vote of 7-0.

Chairman Marlin presented a draft Order in #88-199, Seegers Grain. Motion to accept the Stipulation and dismiss the proceedings by J. Theodore Meyer and seconded by J. Dumelle failed by a 3-4 vote with J. Dumelle, J. Theodore Meyer and M.

Nardulli for it and J. Anderson, B. Forcade, R. Flemal and J. Marlin against it. Motion by J. Anderson to deny Respondent's motion and set the matter for hearing failed to carry. Motion to grant Respondent's motion to defer decisionmaking for 30 days by J. Marlin and seconded by B. Forcade carried by a vote of 6-1 with J. Dumelle, B. Forcade, R. Flemal, J. Marlin, J. Theodore Meyer and, M. Nardulli for it and J. Anderson against it. An Order, remanding the matter to the Hearing Officer with directions to schedule a settlement conference within 14 days and schedule a hearing should efforts at settlement fail, was then adopted by a vote of 6-1 J. Anderson dissented and J. Theodore Meyer concurred. (JM)

All other matters not disposed of as listed were ordered held to May 24, 1990 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 24th day of May, 1990, by a vote of 7-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

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

DECISIONS:

- 88-71 Allen Barry (BF) _____
- AC 89-18 J & R Landfill (JM) _____
(A & B)
- 89-162 Family Enterprises (MN) _____
- * 89-170 Centralia Environmental Services (MN)(due 5/24)

- R88-5 Procedural Rules (Parts 102 and 106; Subparts D, E, and
(B) F), Adopted Rule, Final Order, Opinion and Order (JTM)

- R88-14 Pharmaceutical Manufacturing Plants, Proposed Rule,
First Notice, Opinion and Order (JD)

- R88-25 City of Havana, Adopted Rule, Final Order, Opinion and
Order (MN) _____
- R89-16 RACT Deficiencies, Adopted Rule, Final Order, Opinion
(A) and Order (JD) _____

AC DECISIONS:

- 90-22 Waste Management _____
- 90-25 Robert Ellis _____

* INDICATES VARIANCE OR PERMIT APPEAL

AC MOTIONS:

- 89-120 William White - Respondent's motion for reconsideration of July 27, 1989 Default Order (4/2), Agency response to April 12, 1990 Board Order (5/7)(JM)
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- 89-170 Donald & Catherine Bouthot - Respondents motion for reconsideration of September 13, 1989 Default Order (4/2), response from James A. Bray (5/7), Agency response to April 12, 1990 Board Order (5/8)(JM)
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- 90-25 Robert Ellis - Complainant's motion for withdrawal of violations 2 and 4 alleged in Administrative Citation (5/2)(JM)
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MOTIONS:

- 86-56 Trilla Steel Drum (Remand) - Board hearing Order (BF)
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- 88-69 Scott AFB - Petitioner's motion for extension of variance until April 30, 1990 (4/2), Petitioner's motion for extension of variance until July 31, 1990 (4/24), Agency response to Petitioner's motions (4/24)(JD)
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- 88-151 Citizens Utilities - Petitioner's motion for reconsideration of March 8, 1990 Opinion and Order (4/10), Agency motion for extension of time to respond to Petitioner's motion for reconsideration (4/30), Petitioner's Objection to Agency motion for extension of time (5/1)(JA)
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- 88-199 Seegers Grain - Respondent's comment in response to April 12, 1990 Board Order (4/23), Complainant's motion to defer decision for 30 days (5/7)(JM)
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- 89-19 Daniel & Helen Lorden - Respondent's motion to dismiss Complainant's First Amended Complaint (4/20)
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- 89-64 Gallagher Blacktop - Respondent's motion for hearing (4/30)(BF)
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- 89-182 Robert & Alice Kvatsak - Respondent's motion to exclude certain evidence admitted at hearing (4/27)(BF)
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MOTIONS: (Cont'd)

- 89-183 City of Batavia - Petitioner's motion to file response to Agency Recommendation Instanter (4/27)(JM)
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- 89-184 The Grigoleit Company - Petitioner's motion for reconsideration or in the alternative for leave to file an Interlocutory Appeal (4/12), Agency response (4/25)(JM)
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- 89-212 City of Braidwood - Agency motion to supplement the record (5/2)
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- 90-28 USS Steel - Petitioner's motion to reconsider April 12, 1990 Board Order (5/2)(RF)
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- 90-29 Laclede Steel Company - Petitioner's motion to reconsider April 12, 1990 Board Order (5/1)(RF)
-
- 90-35 Pollution Control Industries - Petitioner's motion to withdraw appeal (5/4)(BF)
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- 90-36 H & L Disposal Company - Petitioner's motion to dismiss permit appeal (5/8)(BF)
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- 90-37 Nesco Steel Barrel - Respondent's motion to strike Counts I and IV of the Complaint (3/29), Agency response to Respondent's motion to strike (4/9)(JM)
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- 90-40 Waste Management - Petitioner's motion to withdraw appeal (5/4)(BF)
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- 90-45 Minnesota Mining and Manufacturing - Petitioner's motion to supplement petition for variance (4/23)
-
- R87-35 City of East Moline Site-Specific - Petitioner's motion for reconsideration of March 8, 1990 Opinion and order (4/13), Petitioner's motion to substitute Affidavit of James Huff (4/18), Agency response to Petitioner's motion for reconsideration (4/26)(JA)
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- R88-14 Abbott Laboratories - joint motion for leave to file Fourth Amended Proposed Regulations (5/8)(JD)
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DISCUSSIONS:

- * 90-21 Village of Yorkville (RF)(due 6/7)_____
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REGULATORY DISCUSSIONS:

- R88-26 Safe Drinking Water Act Regulations, Adopted Rule, Final Order, Opinion and Order (JA)_____
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NEW CASES:

- 90-59 Michael L. Christianson v. The American Milling Company

- 90-85 People of the State of Illinois v. George M. Eliopoulos,
d/b/a Ellis Cleaners_____
- 90-86 Container Corporation of America v. EPA

- 90-87 People of the State of Illinois v. Jernberg Industries,
Inc. _____
- 90-88 People of the State of Illinois v. Eldon Swedberg, d/b/a
Eldon Swedberg Swine Farm_____
- 90-89 EPA v. Fred Johnson, Herman Loeb and Johnson and Briggs
Tank Truck Service, a/k/a Johnson & Briggs Tank Truck
and Heater Service_____
- 90-91 People of the State of Illinois v. General Electric
Corporation_____
- 90-92 People of the State of Illinois v. Lennox Wallpaper
Company_____
- 90-93 People of the State of Illinois v. Magnaflux Corporation

- 90-94 Horace File et al. v. D & L Landfill, Inc. and Bond
County Board of Supervisors (BF)

- 90-95 ESG Watts, Inc. v. EPA (BF)_____
- 90-96 Aero Services International, Inc. v. EPA (Provisional
Variance)(JM)_____
- 90-97 American Nickeloid Company v. EPA (Provisional Variance)
(JM)_____

NEW CASES: (Cont'd)

90-98 People of the State of Illinois v. Aggrecon Corporation

AC APPEALS:

90-26 ESG Watts, Inc. _____

90-28 Arthur Miller _____

NEW AC CASES:

90-36 ESG Watts, Inc. _____

90-37 Robert McCormick _____

MINUTES:

April 26, 1990 _____

May 2, 1990 (Special Board Meeting) _____

PENDING CASES ASSIGNED:

* 85-95 Citizens Utilities (Remand)(JA)
 * 85-140 Citizens Utilities (Remand)(MN)
 * 85-166 Citizens Utilities (JTM)(open waiver)
 86-1 City of Peru CSO (JTM)
 86-48 Wells Manufacturing (Remand)(RF)
 86-56 Trilla Steel Drum (Remand)(BF)
 86-161 Elizabeth Street Foundry (JD)
 * 86-180 The Ceco Corporation (JTM)(open waiver)
 87-89 Cargill (Remand)(JM)
 * 87-131 Amerock Corporation (JTM)
 87-191 Lefton Iron and Metal (JD)
 87-209 Commonwealth Edison Company (JA)
 AS 88-2 Stepan Company (JM)
 * 88-25 Modine Manufacturing (JA)(open waiver)
 88-127 Koppers Company (JM)
 * 88-193 General Motors Corporation (JD)(open waiver)
 * 88-195 McLean County Disposal (JTM)(open waiver)
 88-199 Seegers Grain (JM)
 AS 89-2 Elizabeth Street Foundry (JD)
 AS 89-3 The Nutrasweet Company (BF)
 AC 89-18 J & R Landfill (RF)
 89-64 Gallagher Blacktop (BF)
 AC 89-109 Fairview Heights (JM)
 * 89-129 National Environmental Services (BF)(due 7/19)
 AC 89-131 ESG Watts, Inc. (MN)
 89-151 Brian J. Peter (RF)
 AC 89-156 John Gordon (BF)
 89-179 Tony & Patricia Martin (MN)
 89-182 Robert & Joan Kvatsak (BF)
 * 89-183 City of Batavia (JM)(due 7/19)
 89-186 Bulk Molding Compounds (BF)
 89-206 Chicago Steel Container (JD)
 * 89-213 Illinois Power Company (BF)(due 6/21)
 AC 89-227 Jack Wright (RF)
 AC 89-258 Donald Taylor (BF)
 AS 90-1 City of Jacksonville (JA)
 90-13 ABC Rail Corporation (JD)
 90-15 Wisconsin Can Company (BF)
 90-19 DuPage Plating Company (JD)
 * 90-41 Village of Elburn (RF)(due 7/19)
 * 90-43 Town of Cortland (RF)(due 7/19)
 * 90-53 Industrial Fuels & Resources/Illinois (JD)(due 8/9)
 90-54 F & F Laboratories (MN)
 90-55 United American Metals (JM)
 90-56 Plochman, Inc. (MN)
 90-57 Lifetime Rooftile Company (MN)
 90-58 Arlington Plating Company (MN)
 90-64 Jeffrey Kilgus (BF)
 90-67 Allwaste Tank Cleaning (BF)
 90-70 Caravelle Wood Products (JM)
 90-78 Support Terminal Services (JM)

MINUTES OF SPECIAL BOARD MEETING
MAY 2, 1990 CHICAGO, ILLINOIS

All Board Members were present save J. Anderson, R. Flemal and J. Marlin.

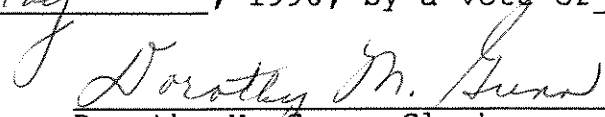
Board Member J. Dumelle called the meeting to order at 10:15 a.m., and then moved that due to exigencies of time that the emergency notice of meeting be dispensed with. The Board agreed 4-0.

The matter of a provisional variance filed as PCB 90-90, Precision Coatings, Inc. v. EPA, was discussed.

The Board then adopted an Order granting the provisional variance by a vote of 4-0. (JD)

There being no further business the meeting was adjourned at 10:20 a.m.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 10th day of May, 1990, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board