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ILLINOIS POLLUTION CONTROL BOARD

**MINUTES OF REGULAR BOARD MEETING
APRIL 22, 1993 CHICAGO, ILLINOIS**

All Board Members were present save M. Nardulli who is ill.

An Opinion and Order was adopted in #AC 92-62 (Dockets A & B), Bill Hammond, by a vote of 6-0. (GTG)

An Opinion and Order was adopted in #92-155, Continental White Cap, by a vote of 6-0. (RCF)

An Opinion and Order was adopted in #92-202, Veach Oil Company, by a vote of 6-0. (GTG)

An Opinion and Order was adopted in #93-41, Village of Bellwood, by a vote of 5-1. B. Forcade dissented. (JCM)

An Opinion and Order was adopted in #93-42, People of the State of Illinois v. Robert Y. Jordan and Priscilla W. Jordan, by a vote of 5-1. J. Theodore Meyer dissented. (JCM)

An Opinion and Order was adopted in #93-48, People of the State of Illinois v. Northwestern Steel & Wire Company, by a vote of 5-1. J. Theodore Meyer dissented. (JCM)

An Opinion and Order was adopted in #93-50, People of the State of Illinois v. Tri-State Metal Company, by a vote of 5-1. J. Theodore Meyer dissented. (JCM)

In R77-4, Public Airport Noise Regulations, a Proposed Rule, Dismissal Order was adopted by a vote of 6-0. (JCM)

In R92-19, Amendments to the Landfill Regulations, a Proposed Rule, Second Notice, Opinion and Order was adopted by a vote of 6-0. (JA)

In R92-21, Amendments to the New Source Review Rules, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 6-0. (GTG)

In R93-4, RCRA Update, USEPA Regulations (July 1, 1992 through December 31, 1992), an Extension of time Order was adopted by a vote of 6-0. (JA)

An Order granting the Agency's motion to file brief instant, granting Complainant's motion for reconsideration, and upon reconsideration, the Board vacated its February 4, 1993 Board Order and entered a new order requiring payment of hearing costs incurred by the Complainant, and denying Respondent's motion for stay as moot, was adopted in #AC 92-37 (Dockets A & B), Gerald Miller, by a vote of 6-0. (BF)

By a vote of 6-0, the Board, on its own motion, dismissed the proceedings in #AC 93-3, Don Petroff, for failure to perfect service. (JCM)

By a vote of 6-0, the Board, on its own motion, dismissed the proceedings in #AC 93-7, William G. Buckles, Jr., for failure to perfect service. (JCM)

Agency motion to dismiss was granted in #AC 93-9, Charles E. Brewer, by a vote of 6-0. (JCM)

An Order, denying the Envirite Corporation's motion for additional time within which to file a supplement to its motion for reconsideration and/or rehearing, was adopted in #AS 91-3, Peoria Disposal Company, by a vote of 6-0. (JA)

Petitioner's motion for an extension of time to file a second amended petition for an adjusted standard was granted in #AS 92-13, Alumax, Inc., by a vote of 6-0. (BF)

An Order directing the parties to file any request for relief from the hearing requirement on or before May 26, 1993, was adopted in #83-150, Archer Daniels Midland Company, by a vote of 6-0. (JCM)

Agency motion for an extension of time in which to file its response to Petitioner's motion for rehearing was granted until April 30, 1993, in #85-140, Citizens Utilities Company, by a vote of 6-0. (JA)

An Order directing the parties to file an additional status report to be received by the Board no later than July 15, 1993, was adopted in #89-178, Olin Corporation, by a vote of 6-0. (GTG)

An Order, directing the Agency to file a status report to be received by the Board no later than May 2, 1993, which shall include an explanation as to why the Agency has not responded to the Petitioner's amended petition, and further advising the Agency that if the status report is not received by the above date, the Board will consider imposing sanctions pursuant to 35 Ill. Adm. Code 101.280, was adopted in #90-27, Shell Oil Company, by a vote of 6-0. (GTG)

An Order granting World Theatre's motion for leave to file a reply to Complainant's response to its motion for clarification of the Board's February 25, 1993 Order, granting Discovery South Group's motion for leave to file a stipulation and amended petition, adding World Music Associates Limited Partnership and Tinley Park JAM Corporation as Respondents, and dismissing World Music Theatre and JAM Productions, Ltd. as Respondents, was adopted in #90-146, Village of Matteson, by a vote of 6-0. (BF)

Complainants' motion for an extension of time to file its response

was granted until May 3, 1993, in #90-182, Ronald and Susan Tex, by a vote of 6-0. (GTG)

An Order directing the Petitioner to file an updated status report within thirty days of the entry of the Order, was adopted in ##91-28, 92-2, Acme Steel Company, by a vote of 6-0. (JTM)

An Order granting the Petitioner's motion to stay the proceedings, and directing the parties to file a status report with the Board and Hearing Officer no later than July 22, 1993, which shall include the date of the expected resolution of the matter, was adopted in #91-49, LTV Steel Company, by a vote of 6-0. (RCF)

Petitioner's motion to dismiss was granted in #91-52, Atwood Industries, by a vote of 6-0. (BF)

An Order directing the parties' to submit status reports to be received by the Board before June 18, 1993, was adopted in #91-162, Minnesota Mining and Manufacturing Company, by a vote of 6-0. (BF)

A Order directing the Petitioner to file, by May 24, 1993, a more complete status report, setting forth specific details and an estimated time when the case might be resolved or the petition will be subject to dismissal for want of prosecution, was adopted in #91-206, Clayton Chemical Company, by a vote of 6-0. (JTM)

An Order directing the Hearing Officer to schedule the matter for hearing on or before may 21, 1993, and to finish all hearings by July 15, 1993, was adopted in #91-219, General Motors Corporation, by a vote of 6-0. (JTM)

Petitioner's motion for judgment by default was denied in #91-243, Smith Oil Company, by a vote of 6-0. (GTG)

An Order granting a joint motion to withdraw an Order, vacating the Board's April 8, 1993 Order setting the matter for hearing, and directing the parties to file a status report with the Board on or before June 25, 1993, was adopted in #91-257, Commonwealth Edison Company, by a vote of 6-0. (JCM)

An Order accepting the Joint Stipulation, granting the parties' Motion for Entry of an Order, directing the Agency to reimburse the Petitioner for underground storage tank removal costs in the amount of \$6,500.00, and closing the docket, was adopted in #92-15, Mercantile Bank of St. Louis, by a vote of 6-0. (BF)

An Order directing the parties to file another status report on or before July 29, 1993, was adopted in #92-29, Safety-Kleen Corporation, by a vote of 6-0. (JCM)

An Order directing the parties to file a status report within 30

days, or by May 24, 1993, was adopted in #92-69, Patterson Gear & Machine, by a vote of 6-0. (JTM)

An Order directing American States to produce all documents, including those for which it claims attorney-client work product privilege, to the Hearing Officer for an in camera inspection, directing American States also to provide a detailed explanation of the privilege asserted for each document, and an indication of who claims the privilege, directing the Lake County Forest Preserve District to make all efforts to narrow the scope of its request, directing the Hearing Officer to make rulings upon each document which remains in dispute, advising the parties that if they wish to appeal any of the Hearing Officer rulings, they may file written appeals to the Board, with arguments in support, within 14 days of the conclusion of the in camera inspection, and advising the parties that the Board will reserve ruling on the Lake County Forest Preserve's motion for rule to show cause, was adopted in #92-80, Lake County Forest Preserve District, by a vote of 6-0. (JTM)

An Order accepting the Joint Stipulation, granting the parties' Motion for Entry of an Order, directing the Agency to reimburse the Petitioner for underground storage tank removal costs in the amount of \$27,718.00, and closing the docket, was adopted in #92-86, Mercantile Bank of St. Louis, by a vote of 6-0. (BF)

An Order accepting the Joint Stipulation and granting Petitioner's Motion for Entry of an Order dismissing the matter and closing the docket, was adopted in #92-124, Mercantile Bank of St. Louis, by a vote of 6-0. (BF)

An Order accepting the Joint Stipulation and granting Petitioner's Motion for Entry of an Order dismissing the matter and closing the docket, was adopted in #92-125, Mercantile Bank of St. Louis, by a vote of 6-0. (BF)

Petitioner's motion for reconsideration and/or rehearing was denied in #92-132, Leroy Brown & Sons, by a vote of 6-0. (GTG)

Petitioner's motion for reconsideration of a February 25, 1993 Order was denied in #92-156, Citizens Against Regional Landfill, by a vote of 5-0. J. Theodore Meyer abstained. (BF)

An Order advising the Petitioner that failure to provide the Board with an adequate waiver or cancellation of noticed hearings may subject the matter to dismissal for want of prosecution, and directing the parties to file status reports with the Board on or before June 25, 1993, was adopted in #92-165, Reichhold Chemicals, by a vote of 6-0. (BF)

Agency motion to file the Agency Record Instanter was granted in #92-214, Legg and Sons Oil Company, by a vote of 6-0. (JTM)

Petitioner's motion to reconsider an April 8, 1993 Board Order was denied in #92-217, General Chemical Corporation, by a vote of 6-0. (BF)

A joint motion to dismiss was granted in #93-4, Olin Corporation, by a vote of 6-0. (RCF)

An Order denying the Agency's motion for Summary Judgment, denying Petitioner's cross-motion for Summary Judgment, and denying the Agency's motion to strike Petitioner's cross-motion for Summary Judgment, was adopted in #93-28, RTC Industries, by a vote of 6-0. (BF)

Petitioners' motion to dismiss was granted in #93-30, Heitzler Services, by a vote of 6-0. (JA)

Agency motion to file the Record Instanter was granted in ##93-45, -46, St. Louis Auto Shredding, by a vote of 5-0. B. Forcade abstained. (RCF)

An Order granting the Village of Robbins' motion for waiver of the filing requirement, was adopted in ##93-52, -54, Village of Robbins, by a vote of 6-0. (GTG)

An Order advising the parties that a hearing may be held in Sangamon County, but that the Board will continue to publish notice of hearing in the County in which the facility is located, as well as the County where the hearing takes place, was adopted in #93-58, L. Keller Oil Properties, by a vote of 6-0. (JTM)

An Order to correct an administrative error that occurred in the Agency's submittal of the proposed amendment to the Board, which resulted in the omission of some material from the First Notice publication in the April 9, 1993 Illinois Register, was adopted in R93-9, Omnibus Cleanup of the Volatile Organic Material RACT Rules Applicable to Ozone Nonattainment Areas, by a vote of 6-0. (BF)

These cases were discussed and held to May 6, 1993 for further discussion or possible decision: ##AS 91-6, Dart Container Corporation; 93-8, Princeton/Beck Oil Company.

In new cases these actions were taken by a vote of 6-0: ##93-65, Albert Warner v. Warner Brothers Trucking and Urbana-Champaign Sanitary District, the Board determined that the case was not duplicitous or frivolous and accepted the matter for hearing, Order by R.C. Flemal; 93-69, Leewards Creative Crafts, Inc. (Elgin Facility) v. EPA, proceedings were dismissed and the docket was closed, Order by J. Theodore Meyer; 93-70, Joliet Park District v. EPA, accepted for hearing, Order by J. Anderson; 93-71, Indian Refining Company v. EPA, accepted for hearing, Order by G. Tanner Girard; 93-72, Atlanta Meadows, Ltd. and R.O.C. Properties, Inc., General Partner v. EPA, held to May 6, 1993 for further

consideration; 93-73, J & M Plating, Inc. v. EPA, accepted for hearing, **Order by B. Forcade**; 93-74, M.S. Carver Lumber Company v. EPA, accepted for hearing, **Order by B. Forcade**; 93-75, Joseph Gutesha and Mildred Samardzija v. Johnson Concrete Company and Elmer Larson, Inc., **held for duplicitous/frivolous determination**; 93-76, Nicor National Illinois, Inc. v. EPA, accepted for hearing, **Order by B. Forcade**.

These Administrative Citations were received by the Board:
 ##93-13, County of Will v. Arthur Hammel; 93-14, EPA v. H/L Disposal Company, d/b/a Brickyard Disposal & Recycling, Inc. and Roy Larson.

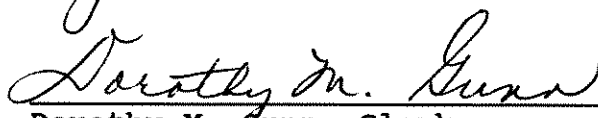
No action was taken in this amended Adjusted Standard: #AS 91-11, Illinois-American Water Company.

By a vote of 5-0, these actions were taken in new Adjusted Standard #AS 93-3, Douglas Furniture of California: Clerk of the Board instructed to schedule the matter for hearing, and in order to facilitate the Board's prompt determination of the merits of the petition, the Petitioner was directed to address certain issues and questions before or at the hearing. B. Forcade abstained. (JA)

Minutes of the April 8, 1993 Board Meeting were approved by a vote of 6-0.

All other matters not disposed of as listed were ordered held to May 6, 1993 for further consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 54 day of May, 1993, by a vote of 5-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
APRIL 22, 1993 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ADDENDUM

MOTIONS:

92-132 Petitioner's motion to strike and/or for leave to
file a reply (4/20) (GTG)

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
APRIL 22, 1993 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

DECISIONS:

AC	92-62 (A & B)	Bill Hammond (GTG) _____
*	92-155	Continental White Cap (RCF) (open waiver) _____
*	92-202	Veach Oil Company (GTG) (due) _____
*	93-41	Village of Bellwood (JCM) (due 6/17) _____
	93-42	People of the State of Illinois v. Robert Y. Jordan and Priscilla W. Jordan (JCM) (Stipulation) _____
	93-48	People of the State of Illinois v. Northwestern Steel & Wire Company (JCM) (Stipulation) _____
	93-50	People of the State of Illinois v. Tri-State Metal Company (JCM) (Stipulation) _____
	R77-4	Public Airport Noise Regulations (JCM) _____
	R92-19	Amendments to Landfill Regulations, Proposed Rule, Second Notice, Opinion and Order (JA) _____
	R92-21	Amendments to the New Source Review Rules, Adopted Rule, Final Order, Opinion and Order (GTG) _____
	R93-4	RCRA Update, USEPA Regulations (July 1, 1992 through December 31, 1992), Extension of time Order (JA) _____

*** INDICATES VARIANCE OR PERMIT APPEAL**

MOTIONS:

- AC 92-37 Gerald B. Miller - letter/motion to clarify (2/22),
 (B) Complainant's motion to reconsider February 4, 1993
 Board Order (3/12), Respondent's motion for stay of
 Orders (3/15), Complainant's response to
 Respondent's motion for stay of Orders (3/22),
 Complainant's Brief in support of motion for
 reconsideration (4/1), Agency motion for leave to
 file Brief Instanter (4/20) (BF)
-
- AC 93-2 Mary Robson et al. - William and Ann Eddington's
 motion for reconsideration of March 11, 1993
 Default Order (4/13) (JCM)
-
- AC 93-3 Don Petroff - Dismissal Order (JCM)
-
- AC 93-7 William G. Buckles, Jr. - Dismissal Order (JCM)
-
- AC 93-9 Charles E. Brewer - Agency motion to dismiss (4/14)
 (JCM)
-
- AS 91-3 Peoria Disposal Company - Envirite Corporation's
 motion for additional time within which to file
 supplement to motion for reconsideration and/or
 rehearing (3/26) (JA)
-
- AS 92-13 Alumax, Inc. - Petitioner's motion for extension of
 time to file a second amended petition for an
 adjusted standard (4/21) (BF)
-
- 83-150 Archer Daniels Midland - joint motion for
 modification of final Order (3/16) (JCM)
-
- 85-140 Citizens Utilities - Petitioner's motion for
 rehearing (11/18), Agency motion for extension of
 time (4/21) (JA)
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- 89-178 Olin Corporation - joint status report in response
 to January 21, 1993 Board Order (4/15) (GTG)
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MOTIONS: (Cont'd)

- 90-27 Shell Oil Company - Petitioner's status report in response to January 21, 1993 Board Order (4/14) (GTG) _____
- 90-146 Village of Matteson - Respondent's motion for clarification of Board's February 25, 1993 Final Order (3/29), Complainant's response to Respondents' motion for clarification (4/5), Respondent's motion for leave to file Respondent's reply to Complainant's response to Respondent's motion for clarification (4/6), Respondent's motion for leave to file Stipulation and amended appearance (4/15) (BF) _____
- 90-182 Ronald & Susan Tex - Complainants' motion for extension of time to respond (4/19) (GTG) _____
- 91-28) Acme Steel Company - status report Order (JTM)
92-2) _____
- 91-49 LTV Steel Company - Petitioner's amended status report in response to October 16, 1992 Board Order and agreed motion to stay (4/15) (RCF) _____
- 91-52 Atwood Industries - Petitioner's motion to dismiss (4/19),(BF) _____
- 91-162 Minnesota Mining & Manufacturing - status report Order (BF) _____
- 91-206 Clayton Chemical Company - status report Order (JTM) _____
- 91-219 General Motors Corporation - set for hearing Order (JTM) _____
- 91-243 Smith Oil Company - Petitioner's motion for Judgment by Default (3/30), Agency response to Petitioner's motion for Judgment by Default (4/12) (GTG) _____
- 91-257 Commonwealth Edison Company - joint motion to withdraw Order (4/21) (JCM) _____

MOTIONS: (Cont'd)

- 92-15 Mercantile Bank of St. Louis - joint stipulation
and motion for entry of Order (4/7) (BF)
-
- 92-29 Safety-Kleen Corporation - joint status report in
response to February 25, 1993 Board Order (4/12)
(JCM)
-
- 92-69 Patterson Gear & Machine - status report Order
(JTM)
-
- 92-80 Lake County Forest Preserve - motion to quash
subpoena filed by Dan Indeliato and American States
Insurance Company (12/9), Complainant's response to
motion to quash and cross motion for rule to show
cause (3/2), American States Insurance Company's
Memorandum in support of its motion to quash and
response to February 25, 1993 Board Order (3/8)
(JTM)
-
- 92-86 Mercantile Bank of St. Louis - joint stipulation
and motion for entry of Order (4/7) (BF)
-
- 92-124 Mercantile Bank of St. Louis - joint stipulation
and motion for entry of Order (4/7) (BF)
-
- 92-125 Mercantile Bank of St. Louis - joint stipulation
and motion for entry of Order (4/7) (BF)
-
- 92-132 Leroy Brown & Sons - Petitioner's motion for
reconsideration and/or rehearing (3/15),
Respondent's response to Petitioner's motion for
reconsideration and/or rehearing (4/7) (GTG)
-

MOTIONS: (Cont'd)

- 92-156 County Board of Whiteside - Petitioners' motion for reconsideration of the submission of the entire Deposition Transcript of Attorney Barrett as an offer of proof and Brief in support of motion for reconsideration (4/1), Waste Management of Illinois' response to Petitioner's motion for reconsideration of the submission of the entire Deposition Transcript of Attorney Barrett as an offer of proof (4/12), County Board of Whiteside County's response in opposition to Petitioner's motion for reconsideration of the submission of the entire Deposition Transcript of Attorney Barrett as an offer of proof (4/13) (BF)
-
- 92-165 Reichhold Chemicals - Board Order (BF)
-
- 92-214 Legg & Sons Oil Company - Agency motion to file Record Instanter (4/20) (JTM)
-
- 92-217 General Chemical Corporation - Petitioner's motion to reconsider April 8, 1993 Board Order (4/16) (BF)
-
- 93-4 Olin Corporation - joint motion to dismiss (4/15) (RCF)
-
- 93-28 RTC Industries - Agency motion for summary judgment and Memorandum of Law in support of motion for summary judgment (3/19), Petitioner's cross-motion for summary judgment (4/7), Agency motion to strike Petitioner's cross-motion for summary judgment (4/15) (BF)
-
- 93-30 Heitzler Services - Petitioners' motion to dismiss (4/19) (JA)
-
- 93-45) St. Louis Auto Shredding - Agency motion to file
93-46) Record Instanter (4/14) (RCF)
-
- 93-52) Village of Robbins - Village of Robbins' motion for
93-54) waiver of filing requirement (4/20) (GTG)
-

MOTIONS: (Cont'd)

- 93-58 L. Keller Oil Properties - Board Order (JTM)
-
- R93-9 Omnibus Cleanup of VOM RACT Rules - Board Order (BF)
-

DISCUSSIONS:

- AS 91-6 Dart Container Corporation (JCM)_____
- * 93-8 Princeton/Beck Oil Company (JTM) (due 5/6)
-

NEW CASES:

- 93-65 Albert Warner v. Warner Brothers Trucking and Urbana-Champaign Sanitary District (RCF)
-
- 93-69 Leewards Creative Crafts, Inc. (Elgin Facility) v. EPA (JTM)_____
- 93-70 Joliet Park District v. EPA (JA)
-
- 93-71 Indian Refining Company v. EPA (GTG)
-
- 93-72 Atlanta Meadows, Ltd. and R.O.C. Properties, Inc., General Partner v. EPA (BF)
-
- 93-73 J & M Plating, Inc. v. EPA
-
- 93-74 M.S. Carver Lumber Company v. EPA
-
- 93-75 Joseph Gutesha and Mildred Samardzija v. Johnson Concrete Company and Elmer Larson, Inc.
-
- 93-76 Nicor National Illinois, Inc. v. EPA
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NEW AC CASES:

- 93-13 County of Will v. Arthur Hammel _____
- 93-14 EPA v. H/L Disposal Company, d/b/a Brickyard
Disposal & Recycling, Inc. and Roy Larson

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AMENDED ADJUSTED STANDARDS:

- 91-11 Illinois-American Water Company (filed 4/12) (RCF)

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NEW ADJUSTED STANDARDS:

- 93-3 Petition of Douglas Furniture of California for an
Adjusted Standard from 35 Ill. Adm. Code 218.204
(JA) _____
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MINUTES:

April 8, 1993 _____