

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING
OCTOBER 21, 1993 CHICAGO, ILLINOIS

After calling the meeting to order, Chairman Manning announced the resignation of Board Member B. Forcade, who will become a partner with the law firm of Jenner & Block. All Board Members were present.

An opinion and order was adopted in #91-157, People of the State of Illinois v. The Grigoleit Company, by a vote of 6-1. J. Theodore Meyer dissented. (JA)

An opinion and order was adopted in #92-90, Robetson-Ceco, by a vote of 7-0. (GTG)

An opinion and order was adopted in #93-108, Fiatallis North America, by a vote of 4-3. R.C. Flemal, B. Forcade, and C.A. Manning dissented. (MN)

An opinion and order was adopted in #93-157, People of the State of Illinois v. Lisle Park District and R.L. Smith Construction, Inc., by a vote of 6-1. J. Theodore Meyer dissented. (CAM)

In R93-4, RCRA Update, USEPA Regulations (July 1, 1992 through December 31, 1992), a supplemental opinion was adopted by a vote of 7-0. (JA)

By a vote of 6-1, Respondent's motion for reconsideration of the hearing costs was granted, and upon reconsideration, the Board affirmed its assessment of the hearing costs in its July 22, 1993 Board Order, and ordered the Respondent to pay, within 30 days, the hearing costs incurred by the Board in #AC 92-33(B), Alexander Development Company. J. Theodore Meyer dissented. (CAM)

By a vote of 6-1, Complainant's motion to reconsider an August 26, 1993 Board order was granted, and upon reconsideration, the Board adjusted the costs in Complainant's affidavit, and ordered the Respondent to pay, within 30 days, the hearing costs incurred by the Board in #AC 92-79(B), Lee Hsueh. (BF)

An agreed motion to dismiss was granted in #AC 93-13, H. Arthur Hammel, by a vote of 7-0. (JA)

An order, construing Respondent's letter as a request for hearing to appeal the administrative citation, and advising the Respondent that if she does not wish to proceed with the matter as an appeal, she may file a motion to dismiss, and if a motion to dismiss is not received by the Board by December 3, 1993, the matter will be set for hearing, was adopted in #AC 93-45, Rita Hefley, by a vote of 7-0. (BF)

An order renewing the stay of the proceedings until December 13, 1993, at which time the Petitioner was directed to file a timely status report with the Board, was adopted in #AS 88-2, Stepan Company, by a vote of 7-0. (CAM)

An order directing the parties to submit status reports to be received by the Board on or before January 25, 1994, was adopted in #AS 90-5, R. Lavin & Sons, by a vote of 6-0. B. Forcade abstained. (RCF)

An order extending the stay of the proceedings until December 13, 1993, at which time the Petitioner was directed to file an updated status report, was adopted in #AS 91-8, Reynolds Metal Company, by a vote of 7-0. (CAM)

Petitioner's motion to dismiss was granted in #AS 91-12, Illinois American Water Company, by a vote of 7-0. (RCF)

Petitioner's motion for an extension of time to file a second amended petition for an adjusted standard was granted until December 13, 1993, in #AS 92-13, Alumax, by a vote of 7-0. (BF)

An order dismissing the petition due to the Petitioner's failure to file an amended petition correcting the deficiencies as ordered by the Board in its July 22, 1993 Board order, was adopted in #AS 93-6, City of Sycamore, by a vote of 7-0. (BF)

An order directing the parties to submit an additional status report by January 14, 1994, was adopted in #89-178, Olin Corporation, by a vote of 7-0. (GTG)

An order directing the parties to submit status reports to be received by the Board on or before January 25, 1994, was adopted in #90-31, R. Lavin & Sons, by a vote of 6-0. B. Forcade abstained. (RCF)

An order granting the Petitioner's motion for leave to withdraw its appeal, was adopted in #91-84, Indian Refining Limited Partnership, by a vote of 6-0. B. Forcade abstained. (RCF)

An order directing the parties to file an updated status report on or before December 16, 1993, was adopted in #91-94, Safety-Kleen Corporation, by a vote of 7-0. (CAM)

An order directing the parties to file an additional status report to be received by the Board no later than November 15, 1993, was adopted in #91-122, Condecor, by a vote of 7-0. (GTG)

An order directing the parties to submit status reports to be received by the Board on or before January 25, 1994, was adopted in #91-139, R. Lavin & Sons, by a vote of 6-0. B. Forcade abstained. (RCF)

By a vote of 7-0, the Board, on its own motion, extended a

continuance with regard to the hearing date until November 4, 1993, and advised the parties that if a settlement agreement is not filed by 4:30 p.m. on November 2, 1993, the Board will issue an Order at its November 4, 1993 Board Meeting setting the matter for hearing in #92-84, Berkshire Furniture Company. (CAM)

An order directing the Petitioner to file an additional status report with the Board on or before February 7, 1994, was adopted in #92-108, The OK Trucking Company, by a vote of 7-0. (BF)

An order granting the Agency's motion to extend the time to file the record until March 1, 1994, was adopted in #92-109, Archer Daniels Midland Company, by a vote of 7-0. (JA)

An order directing the parties to file status reports with the Board by November 19, 1993 which shall include the present status of the case and an anticipated schedule for the completion of the matter, was adopted in #92-163, DJM Oil Company, by a vote of 7-0. (BF)

An order directing the parties to file additional status reports with the Board no later than November 19, 1993 which shall include the present status of the case and an anticipated schedule for the completion of the matter, was adopted in #92-199, Twomey Company, by a vote of 7-0. (BF)

Petitioner's motion to voluntarily dismiss was granted in #92-208, Safety-Kleen Corporation, by a vote of 7-0. (RCF)

Complainant's motion to dismiss the complaint with prejudice was granted in #93-2, Jay Aguilar, by a vote of 7-0. (BF)

An order directing the parties to submit status reports to be received by the Board and the Hearing Officer no later than November 1, 1993, was adopted in ##93-45, -46, St. Louis Auto Shredding, by a vote of 6-0. B. Forcade abstained. (RCF)

An order directing the parties to file status reports with the Board no later than November 19, 1993, was adopted in #93-66, Illico Independent Oil Company, by a vote of 7-0. (BF)

Agency motion to file the recommendation instanter was granted in #93-72, Atlanta Meadows, by a vote of 7-0. (BF)

Petitioner's motion to dismiss was granted in #93-74, M.S. Carver Lumber Company, by a vote of 7-0. (CAM)

An order directing the parties to file status reports with the Board no later than November 19, 1993, was adopted in #93-77, Highland Park School District #108, by a vote of 7-0. (BF)

Agency motion to supplement the administrative record was granted

in #93-104, Griffin Service, by a vote of 7-0. (BF)

By a vote of 7-0, the Agency's motion to correct its motion for an extension of time to file the Agency record was granted, and the record is now due to be filed on or before December 1, 1993, in #93-140, CP Inorganics. (BF)

An order granting the Agency's motion to file the record instanter, was adopted in #93-159, Perma-Treat of Illinois, by a vote of 7-0. (GTG)

An order granting the Agency's motion to file the recommendation instanter, was adopted in #93-164, Village of North America, by a vote of 7-0. (MN)

An order construing the Agency's motion to file its answer instanter as a motion for leave to file the Agency record, was adopted in #93-172, Inspiration Development Company, by a vote of 7-0. (JTM)

An order granting the Styrene Information and Research Center and the Chemical Industry Council of Illinois' requests for a hearing, and directing the Hearing Officer to take the necessary actions to expeditiously bring the matter to hearing, was adopted in R90-1(D), Toxic Air Contaminant List, Styrene, by a vote of 7-0. (CAM)

These cases were discussed and ordered held to November 4, 1993 for further discussion or possible decision: ##AC 93-6(Dockets A & B), Ruth and Steve Sheppard; 93-147, Village of Grantfork; 93-169, Knapheide Manufacturing.

These regulatory matters were discussed and ordered held to November 4, 1993 for further discussion or possible decision: R93-14, RACT for Major Sources Emitting VOM's in the Chicago Nonattainment Area: 25 Tons, Proposed Rule, Second Notice, Opinion and Order; R93-16, RCRA Update, USEPA Regulations (January 1, 1993 through June 30, 1993), Proposal for Public Comment.

In new cases these actions were taken by a vote of 7-0: ##93-161, Joseph A. Schrantz, Charles Hulihan, Frank Owoc, and Elizabeth Stearns v. Village of Villa Park, DuPage County Division of Transportation, Villa Park Rotary Club, Kiwanis Club, and Masonic Lodge, accepted for hearing, all motions to dismiss the complaint were denied, DuPage County's motion to dismiss was granted and the Clerk of the Board was directed to delete the DuPage County Division of Transportation from the case caption, and County of DuPage motion to vacate technical defaults was denied, **Order by C.A. Manning**; 93-171, Leo G. Fore et al. v. Midstate Kart Club, **held for duplicitous/frivolous determination**; 93-184, People of the State of Illinois v. American National Can Company, Clerk of the Board directed to cause publication of the required newspaper notice of the parties' request for relief from hearing, and the

Board will reserve ruling on the parties' request until after the statutory 21 day notice has passed, **Order by C.A. Manning; 93-185, People of the State of Illinois v. Owens-Brockway Glass Container, Inc., Clerk of the Board directed to cause publication of the required newspaper notice of the parties' request for relief from hearing, and the Board will reserve ruling on the parties' request until after the statutory 21 day notice has passed, Order by C.A. Manning; 93-186, People of the State of Illinois v. Emco Chemical Distributors, Inc., hearing mandatory; 93-187, People of the State of Illinois v. Solar Corporation, Clerk of the Board directed to cause publication of the required newspaper notice of the parties' request for relief from hearing, and the Board will reserve ruling on the parties' request until after the statutory 21 day notice has passed, Order by C.A. Manning; 93-188, People of the State of Illinois v. The Segerdahl Corporation, Clerk of the Board directed to cause publication of the required newspaper notice of the parties' request for relief from hearing, and the Board will reserve ruling on the parties' request until after the statutory 21 day notice has passed, Order by C.A. Manning; 93-189, People of the State of Illinois v. Graftek Press, Inc., Clerk of the Board directed to cause publication of the parties' request for relief from hearing, and the Board will reserve ruling on the parties' request until after the statutory 21 day notice has passed, Order by C.A. Manning; 93-190, Municipal Solid Waste Landfills v. EPA, held for an Agency recommendation and Agency Motion to file an Amended Petition was granted, Order by G. Tanner Girard; 93-191, People of the State of Illinois v. Lloyd Weimann, d/b/a Weimann Ice & Fuel, hearing mandatory; 93-192, The Decatur Auto Auction, Inc. v. Macon County Farm Bureau, Inc., The Macon County Fair Association, and The Macon County Horsemen's Association, held for duplicitous/frivolous determination; 93-193, LTV Steel Company, Inc. (Hennepin Works) v. EPA, accepted for hearing, Order by C.A. Manning; 93-194, City of Monmouth v. EPA, provisional variance granted, Order by C.A. Manning; R93-27, Groundwater Protection: Amendments to Groundwater Quality Standards (35 Ill. Adm. Code 620), ordered held to November 4, 1993 for possible consideration.**

These Administrative Citations were received by the Board:

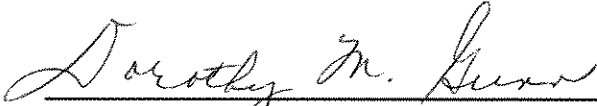
##93-52, EPA v. Randall G. Rowe and Craig Linton; 93-53, Sangamon County v. Johnco Construction Company, and Pontious Brothers Excavating; 93-54, Sangamon County v. D. Ray Smith; 93-55, Sangamon County v. Lou Messervy.

In new case R93-28, Stage II Vapor Recovery in the Metro-East Area: Repeal of 35 Ill. Adm. Code 219.586, these actions were taken by a vote of 7-0, the proposal was accepted for hearing, Agency motions to supply the Attorney General with a partial copy, and not to supply the Department of Energy and Natural Resources with an entire copy of the proposal, and for an expedited hearing were granted, and the hearing will proceed as quickly as possible within the constraints of notice, publication and hearing requirements imposed by several statutes. (RCF)

Minutes of the October 7, 1993 Board Meeting were approved by a vote of 7-0.

All other matters not disposed of as listed were ordered held to November 4, 1993 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 4th day of November, 1993, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
OCTOBER 21, 1993 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ADDENDUM

NEW CASES:

R93-28 Stage II Vapor Recovery in the Metro East Area:
Repeal of 35 Ill. Adm. Code 219.586

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
OCTOBER 21, 1993 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

DECISIONS:

- 91-157 People of the State of Illinois v. The Grigoleit Company (JA) (Stipulation)

- * 92-90 Robertson-Ceco (GTG) (open waiver)

- * 93-108 Fiatallis North America (MN) (due 11/4)

- 93-157 People of the State of Illinois v. Lisle Park District and R.L. Smith Construction, Inc. (CAM) (Stipulation)

- R93-4 RCRA Update, USEPA Regulations (July 1, 1992 through December 31, 1992), Supplemental Opinion (JA)

MOTIONS:

- AC 91-32 Rochelle Disposal Service - Respondent's motion to (A & B) Reconsider September 23, 1993 Board Order (10/18) (CAM)

- AC 92-33 Alexander Development Company - Respondent's Motion for Reconsideration of Hearing Costs (9/13) (CAM)

- AC 92-64 Rochelle Disposal Service - Respondent's Motion to (A & B) Reconsider August 26, 1993 Board Order (9/21), Respondent's Motion for Leave to file Instantaner an Amended Motion to Reconsider August 26, 1993 Board Order (10/14) (CAM)

MOTIONS: (Cont'd)

- AC 92-79 Lee Hseuh - Complainant's Motion to Reconsider
(B) August 26, 1993 Board Order (10/1) (BF)
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- AC 93-13 H. Arthur Hammel - Agreed Motion to Dismiss (9/29)
(JA)
-
- AC 93-45 Rita Hefley - Petition for Review (See Respondent's
letter filed 10/19)
-
- AS 88-2 Stepan Company - Petitioner's status report in
response to September 23, 1993 Board Order (10/19)
(CAM)
-
- AS 90-5 R. Lavin & Sons - Petitioner's status report in
response to August 5, 1993 Board Order (10/14),
Agency status report in response to August 5, 1993
Board Order (10/14) (RCF)
-
- AS 91-8 Reynolds Metals Company - Status report in response
to August 5, 1993 Board Order (10/8) (CAM)
-
- AS 91-12 Illinois American Water Company - Joint Stipulation
and Motion to Dismiss (10/15) (RCF)
-
- AS 92-13 Alumax, Inc. - Petitioner's Motion for Extension of
Time to file a Second Amended Petition for an
Adjusted Standard (10/20) (BF)
-
- AS 93-6 City of Sycamore - Dismissal Order (BF)
-
- 89-178 Olin Corporation - Joint status report in response
to July 22, 1993 Board Order (10/15) (GTG)
-
- 90-31 R. Lavin & Sons - Agency status report in response
to August 5, 1993 Board Order (10/14), Petitioner's
status report in response to August 5, 1993 Board
Order (10/14) (RCF)
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MOTIONS: (Cont'd)

- 91-84 Indian Refining Limited Partnership - Petitioner's Motion for Leave to Withdraw Appeal (10/19) (RCF)
-
- 91-94 Safety-Kleen Corporation - Petitioner's status report in response to September 9, 1993 Board Order (10/18) (CAM)
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- 91-122 Condecor - Joint status report in response to August 5, 1993 Board Order (10/15) (GTG)
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- 91-139 R. Lavin & Sons - Agency status report in response to August 5, 1993 Board Order (10/14), Petitioner's status report in response to August 5, 1993 Board Order (10/14) (RCF)
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- 92-84 Berkshire Furniture Company - Joint status report in response to July 14, 1993 Board Order (10/15) (CAM)
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- 92-108 The OK Trucking Company - Petitioner's status report in response to June 3, 1993 Board Order (10/8) (BF)
-
- 92-109 Archer Daniels Midland - Agency Motion to Extend Time to file Agency Record (10/20) (JA)
-
- 92-163 DJM Oil Company - Status report Order (BF)
-
- 92-199 Twomey Company - Status report Order (BF)
-
- 92-208 Safety-Kleen Corporation - Petitioner's Motion to Voluntarily Dismiss (10/12) (RCF)
-
- 93-2 Jay Aguilar - Complainant's Motion for Voluntary Dismissal with Prejudice (10/13) (BF)
-
- 93-45) St. Louis Auto Shredding - Status report of
93-46) Petitioner and Agency in response to September 23, 1993 Board Order (10/15) (RCF)
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MOTIONS: (Cont'd)

- 93-66 Illico Independent Oil Company - Status report Order (BF) _____
- 93-72 Atlanta Meadows - Agency Motion for Leave to file Agency Recommendation Instanter (10/19) (BF) _____
- 93-74 M.S. Carver Lumber Company - Petitioner's Motion to Dismiss (10/7) (CAM) _____
- 93-77 Highland Park School District - Status report Order (BF) _____
- 93-104 Griffin Service - Agency Motion to Supplement the Administrative Record (10/4) (BF) _____
- 93-105 Divane Brothers Electric Company - Agency's Second Motion for Summary Judgment (10/4), Petitioner's Response to Agency's Second Motion for Summary Judgment and Petitioner's Second Cross-Motion for Summary Judgment (10/12), Agency Response to Petitioner's Second Cross-Motion for Summary Judgment (10/19) (RCF) _____
- 93-140 CP Inrognics - Agency Motion for Extension of Time to file Agency Record (10/14), Agency Motion to correct the Agency's Motion for Extension of Time to file Agency Record and Renewed Motion for Extension of Time (10/20) (BF) _____
- 93-150 Robert Miehle - Respondent's Motion to Dismiss and Memorandum of Law in Support of its Motion to Dismiss (9/10), Complainant's Response to Respondent's Motion to Dismiss (10/4) (CAM) _____
- 93-159 Perma-Treat of Illinois - Agency Motion to file Record Instanter (10/12) (GTG) _____
- 93-164 Village of North Aurora - Agency Motion to file Recommendation Instanter (10/20) (MN) _____

MOTIONS: (Cont'd)

93-172 Inspiration Development Company - Agency Motion for
leave to file its Answer Instanter (10/13) (JTM)

R90-1 Toxic Air Contaminant List, Styrene - Set for
(D) Hearing Order (CAM)

DISCUSSIONS:

- AC 93-6 Ruth and Steve Sheppard (CAM) _____
 (A & B)
- * 93-147 Village of Grantfork (JTM) (due 1/20) _____
- * 93-169 Knapheide Manufacturing (CAM) (due 1/6) _____
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REGULATORY DISCUSSIONS:

- R93-14 RACT for Major Sources Emitting VOM's in the
Chicago Nonattainment Area: 25 Tons, Proposed
Rule, Second Notice, Opinion and Order (JTM)
-
- R93-16 RCRA Update, USEPA Regulations (January 1, 1993
through June 30, 1993), Proposal for Public Comment
-

NEW CASES:

- 93-161 Joseph A. Schrantz, Charles Hullihan, Frank Owoc, and Elizabeth Stearns v. Village of Villa Park, DuPage County Division of Transportation, Villa Park Rotary Club, Kiwanis Club, and Masonic Lodge (See the Rotary Club of Villa Park's Motion to Dismiss filed 9/13; Village of Villa Park's Motion to Dismiss filed 9/15; Complainants' Reply to Motion to Dismiss Complaint filed 9/16; Rotary Club of Villa Park's Amended Motion to Dismiss filed 9/17; motion to dismiss by Villa Park Masonic Lodge filed 9/20; Complainant's Reply to Amended Motion to Dismiss Complaint filed 9/20; Complainant's Reply to Villa Park's Kiwanis Club's Motion to Dismiss filed 9/21; Rotary Club of Villa Park's Amended Motion to Dismiss filed 9/27; Motion to Vacate Technical Defaults and for Leave to file Instanter and Affidavit in Support Thereof, Motion to Dismiss County of DuPage and Affidavit in Support Thereof filed 10/4; Complainants' reply to Motions filed on October 1, 1993 by Anna B. Harkins, Assistant State's Attorney, DuPage County filed 10/6) (CAM)
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- 93-171 Leo G. Fore et al. v. Midstate Kart Club (See also Respondents' Motion to Dismiss filed 10/12) (MN)
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- 93-184 People of the State of Illinois v. American National Can Company (See also Agreed Motion to Request Relief from Hearing Requirement filed 10/7) (CAM)
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- 93-185 People of the State of Illinois v. Owens-Brockway Glass Container, Inc. (See also Agreed Motion to Request Relief from Hearing Requirement filed 10/7) (CAM)
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- 93-186 People of the State of Illinois v. Emco Chemical Distributors, Inc. (RCF)
-
- 93-187 People of the State of Illinois v. Solar Corporation (See also Agreed Motion to Request Relief from Hearing Requirement filed 10/7) (CAM)
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NEW CASES: (Cont'd)

- 93-188 People of the State of Illinois v. The Segerdahl Corporation (See also Agreed Motion to Request Relief from Hearing Requirement filed 10/7) (CAM)
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- 93-189 People of the State of Illinois v. Graftek Press, Inc. (See also Agreed Motion to Request Relief from Hearing Requirement filed 10/7) (CAM)
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- 93-190 Municipal Solid Waste Landfills v. EPA (See also Agency Motion to file Amended Petition Instanter (10/20) (GTG)
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- 93-191 People of the State of Illinois v. Lloyd Weimann d/b/a Weimann Ice & Fuel (JTM)
-
- 93-192 The Decatur Auto Auction, Inc. v. Macon County Farm Bureau, Inc., The Macon County Fair Association, and The Macon County Horsemen's Association (MN)
-
- 93-193 LTV Steel Company, Inc. (Hennepin Works) v. EPA (CAM)
-
- 93-194 City of Monmouth v. EPA (Provisional Variance) (CAM)
-
- R93-27 Groundwater Protection: Anendments to Groundwater Quality Standards (35 Ill. Adm. Code 620) (RCF)
-

NEW AC CASES:

- 93-52 EPA v. Randall G. Rowe and Craig Linton_____
- 93-53 Sangamon County v. Johnco Construction Company, and Pontious Brothers Excavating_____
- 93-54 Sangamon County v. D. Ray Smith_____
- 93-55 Sangamon County v. Lou Messervy_____

AC APPEALS:

93-30 Ray Landers (See letter filed September 7, 1993)
 (BF) _____

93-42 Norman Clark (See letter filed September 23, 1993)
 (CAM) _____

MINUTES:

October 7, 1993 _____