

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING
AUGUST 5, 1993 CHICAGO, ILLINOIS

All Board Members were present save G. Tanner Girard who was on vacation.

An Opinion and Order was adopted in #AS 91-6, Dart Container Corporation, by a vote of 6-0. (CAM)

An Interim Opinion and Order was adopted in #91-195, Scott and Karen Thomas, by a vote of 5-1. R.C. Flemal dissented and J. Theodore Meyer concurred. (MN)

An Opinion and Order was adopted in #93-83, Finks & Austman, by a vote of 6-0. (JTM)

An Opinion and Order was adopted in #93-110, City of Byron, by a vote of 5-1. B. Forcade dissented. (CAM)

An Opinion and Order was adopted in #93-116, People of the State of Illinois v. H.P. Smith, Inc., by a vote of 5-1. J. Theodore Meyer dissented. (CAM)

An Opinion and Order was adopted in #93-117, People of the State of Illinois v. T.J. Harkins Basic Commodity Brokers, Inc., by a vote of 5-1. J. Theodore Meyer dissented. (CAM)

An Opinion and Order was adopted in #93-119, People of the State of Illinois v. Treasure Chest Advertising Company, Inc., by a vote of 5-1. J. Theodore Meyer dissented. (CAM)

An Opinion and Order was adopted in #93-120, People of the State of Illinois v. Chicago Industrial Waste Haulers, Inc., by a vote of 5-1. J. Theodore Meyer dissented. (CAM)

In R92-18, Contingency Plan Update (USEPA Rules through December 31, 1992), and Extension of Time Order was adopted by a vote of 6-0. (JA)

In R93-6, UIC Update, USEPA Regulations (July 1, 1992 through December 31, 1992), an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 6-0. (JA)

A Default Order was adopted in this Administrative Citation by a vote of 6-0: #93-24, E & E Hauling.

An Order granting the Agency's motion to dismiss Kenton Roderick as a Respondent, recaptioning the case with Illinois Landfill, Inc. as the sole Respondent, and directing the Agency to file its proof of service on Illinois Landfill, Inc., with the Board on or before August 20, 1993, or the matter will be subject to dismissal, was

adopted in #AC 93-20, Illinois Landfill, Inc., by a vote of 6-0. (CAM)

By a vote of 6-0, Respondent's motion to dismiss was denied and the matter will proceed to hearing in #AC 93-21, City of Herrin. (CAM)

Complainant's motion to dismiss was granted in #AC 93-25, Bernice Wallace, by a vote of 6-0. (CAM)

An Order staying the proceedings until September 7, 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 6-0. (CAM)

Petitioner's motion to dismiss was granted in #AS 90-2, Shell Oil Company, by a vote of 6-0. (MN)

An Order directing the parties to submit status reports to be received by the Board on or before October 14, 1993, was adopted in #AS 90-5, R. Lavin & Sons, by a vote of 5-0. B. Forcade abstained. (RCF)

An Order directing the parties to file an updated status report on or before October 8, 1993, was adopted in #AS 91-8, Reynolds Metals Company, by a vote of 6-0. (CAM)

Agency motion to join as a Co-Petitioner was granted in #AS 93-3, Douglas Furniture of California, by a vote of 6-0. (JA)

An Order granting the Petitioner's motion for substitution of attorneys, and granting the Petitioner until September 2, 1993, to file its response to the Agency's response to its amended petition, was adopted in #86-4, City of Morris, by a vote of 6-0. (RCF)

An Order granting the Petitioner's motion for modification of the Board's August 4, 1988 and March 26, 1992 Board Orders, was adopted in #88-52, City of Ottawa, by a vote of 6-0. (RCF)

Petitioner's motion to dismiss was granted in #90-27, Shell Oil Company, by a vote of 6-0. (CAM)

An Order directing the parties to submit status reports to be received by the Board on or before October 14, 1993, was adopted in #90-31, R. Lavin & Sons, by a vote of 5-0. B. Forcade abstained. (RCF)

An Order granting the Petitioner's motion to stay and directing the parties to file a status report with the Board and the hearing officer not later than November 5, 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)

By a vote of 6-0, an Order granting a joint motion for reconsideration, and upon reconsideration, vacating a July 22, 1993 Board Order, granting Petitioner's motion to file its status report instanter, and directing the parties to file an additional status report to be received by the Board no later than October 15, 1993, was adopted in #91-122, Condecor, Inc. (CAM)

An Order directing the parties to submit status reports to be received by the Board on or before October 14, 1993, was adopted in #91-139, R. Lavin & Sons, by a vote of 5-0. B. Forcade abstained. (RCF)

An Order granting an agreed motion to stay the proceedings until December 1, 1993, at which time the parties shall file an additional status report, was adopted in #91-197, Cabot Corporation, by a vote of 6-0. (CAM)

An Order directing the parties to file status reports to be received by the Board no later than September 20, 1993, was adopted in #92-23, The Grigoleit Company, by a vote of 6-0. (JA)

An Order directing the parties to file an updated status report on or before September 7, 1993 in the event that the matter has not been previously dismissed, was adopted in #92-29, Safety-Kleen Corporation, by a vote of 6-0. (CAM)

An Order directing the parties to file status reports no later than September 20, 1993, was adopted in #92-67, Escast, Inc., by a vote of 6-0. (RCF)

An Order directing the Clerk of the Board to cause publication of the required newspaper notice of the parties' request for relief from the hearing requirement, and advising the parties that the Board will reserve ruling on its request until after the statutory 21 day notice has passed, was adopted in #93-56, World Color Press, by a vote of 6-0. (JTM)

Petitioner's motion for summary judgment was denied in ##93-60, -61, Industrial Salvage, by a vote of 6-0. (RCF)

An Order accepting the Petitioner's late filing of its motion to stay, granting the Petitioner until August 23, 1993, to file its response to the Agency's motion for summary judgment, and advising the Petitioner to provide an additional waiver of the decision deadline if it wishes to have a lengthier stay, was adopted in #93-70, Joliet Park District, by a vote of 6-0. (JA)

An Order granting the Petitioner's motion to supplement the record with Group Exhibits A-P as well as the motion to file a limited number of copies, was adopted in #93-73, J & M Plating, by a vote of 6-0. (JA)

An Order denying the Respondent's supplemental motion to dismiss was adopted in #93-87, South Holland Metal Finishing, by a vote of 6-0. (BF)

An Order directing the Clerk of the Board to cause publication of the required newspaper notice of the parties' request for relief from the hearing requirement, and advising the parties that the Board will reserve ruling on its request until after the statutory 21 day notice has passed, was adopted in #93-94, Cooper Tools, by a vote of 6-0. (MN)

Agency motion to file the record instanter was granted in #93-111, Bocker Chevrolet Company, by a vote of 6-0. (RCF)

An Order denying the Respondents' motions to dismiss the petition for review, was adopted in #93-114, Browning-Ferris Industries, by a vote of 6-0. (CAM)

Petitioner's motion for leave to allow Paul D. Hancock to appear pro hac vice, was granted in #93-122, EMRO Marketing Company, by a vote of 6-0. (JA)

These cases were discussed and ordered held to August 26, 1993 for further discussion or possible decision: ##90-137, Village of Roxana; 91-192, People of the State of Illinois v. Prairie Material Sales; AS 92-7, Illinois Power Company; 92-142, Illinois Power Company; AC 92-64 (Docket A & B), City of Rochelle; 92-203, Chuck & Dan's Auto Service; 93-84, Consolidation Coal Company; 93-100, ZMC, Inc. (Omni Products); 93-134, People of the State of Illinois v. Ecologic, Inc., d/b/a Zinc Company of America.

These regulatory matters were discussed and ordered held to August 26, 1993 for further discussion or possible decision: R90-1(D), Toxic Air Contaminants List, Styrene, Proposed Rule, First Notice, Proposed Opinion and Order; R93-9, Omnibus Cleanup of the Volatile Organic Material RACT Rules, Adopted Rule, Final Order, Opinion and Order; R93-10, RCRA Subtitle D Amendments, Adopted Rule, Final Order, Opinion and Order.

In amended petition #93-106, Larry Slates et al., these actions were taken by a vote of 6-0: Petitioner's motion to amend the petition was granted and the 120 day decision time clock was restarted with its filing. (JTM)

In new cases these actions were taken by a vote of 6-0: ##93-135, City of Springfield, Illinois v. EPA, Petitioner's motion requesting leave to incorporate materials from the PCB 88-113 record was granted, Petitioner's motion to waive the requirement to file four copies of the incorporated record with the Board was denied, the Petitioner was directed to file four copies of the incorporated materials pursuant to 35 Ill. Adm. Code 101.106, Petitioner advised that the decision time clock will restart upon

the filing of the incorporated materials, and the matter was held for an Agency Recommendation, **Order by M. Nardulli**; 93-136, Safety-Kleen Corporation (Caseyville Service Center) v. EPA, accepted for hearing, **Order by C. Manning**; 93-137, Safety-Kleen Corporation (Caseyville Service/Accumulation Center) v. EPA, accepted for hearing, **Order by J. Anderson**; 93-138, Safety-Kleen Corporation (Urbana Service Center Facility) v. EPA, accepted for hearing, **Order by J. Anderson**; 93-139, The Ensign-Bickford Company v. EPA, accepted for hearing, **Order by C. Manning**; 93-140, CP Inorganics, Inc. v. EPA, accepted for hearing, **Order by B. Forcade**; 93-142, Haco, Inc. v. EPA, accepted for hearing, **Order by R.C. Flemal**; 93-143, DuPage Enterprises, Inc. v. EPA, proceedings dismissed, **Order by J. Theodore Meyer**; 93-144, People of the State of Illinois v. Anchor Glass Container Corporation, Clerk of the Board directed to cause publication of the required newspaper notice of the parties' request for relief from the hearing requirement, and the Board will reserve ruling on the parties' request until after the statutory 21 day notice has passed, **Order by C. Manning**.

These Administrative Citations were accepted by the Board:
 ##93-29, County of Jackson v. Patrick Cheak; 93-30, Sangamon County v. The Illinois National Bank of Springfield et al.

In Administrative Citation Appeal #93-27, Oliver A. Smith, these actions were taken by a vote of 6-0: Respondent was advised that if he does not wish to proceed with the matter as a petition for review, he may file a motion to dismiss, and if a motion to dismiss is not received by the Board prior to October 15, 1993, the matter will be set for hearing. (BF)

Petitioner's motion to extend the briefing schedule was granted for 60 days in #92-212, Pekin Metro Landfill, by a vote of 6-0. (JA)

Petitioner's motion to extend the briefing schedule was granted for 60 days in #93-1, Pekin Metro Landfill, by a vote of 6-0. (JA)

Agency motion for an extension of time in which to file its comments was granted until August 12, 1993 in R93-10, RCRA Subtitle D Amendments, by a vote of 6-0. (JA)

Minutes of the July 22, 1993 Board Meeting were approved by a vote of 6-0.

Minutes of the July 29, 1993 Special Board Meeting were approved by a vote of 4-0. Messrs. R.C. Flemal and J. Theodore Meyer abstained.

All other matters not disposed of as listed were ordered held to August 26, 1993 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 26th day of August, 1993, by a vote of 5-0.

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

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
AUGUST 5, 1993 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ADDENDUM

MOTIONS:

- 92-212 Pekin Metro Landfill - Petitioner's Motion to
Extend Briefing Schedule (6/25) (JA)
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- 93-1 Pekin Metro Landfill - Petitioner's Motion to
Extend Briefing Schedule (6/25) (JA)
-
- R93-10 RCRA Subtitle D Amendments - Agency Motion for
Extension of time to file Comments (8/4) (JA)
-

AMENDED PETITIONS:

- 93-106 Larry Slates et al. - Respondent Illinois
Landfill's Response to Petitioners' Motion to
Amend Petition (8/4) (JTM)
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ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
AUGUST 5, 1993 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

DECISIONS:

AS	91-6	Dart Container Corporation (CAM)	
	91-195	Scott and Karen Thomas (MN)	
*	93-83	Finks & Austman (JTM) (due 8/26)	
*	93-110	City of Byron (CAM) (due 10/7)	
	93-116	People of the State of Illinois v. H.P. Smith, Inc. (CAM) (Stipulation)	
	93-117	People of the State of Illinois v. T.J. Harkins Basic Commodity Brokers, Inc. (CAM) (Stipulation)	
	93-119	People of the State of Illinois v. Treasure Chest Advertising Company, Inc. (CAM) (Stipulation)	
	93-120	People of the State of Illinois v. Chicago Industrial Waste Haulers, Inc. (CAM) (Stipulation)	
	R92-18	Contingency Plan Update (USEPA Rules through December 31, 1992), Extension of Time Order (JA)	
	R93-6	UIC Update, USEPA Regulations (July 1, 1992 through December 31, 1992), Adopted Rule, Final Order, Opinion and Order (JA)	

* INDICATES VARIANCE OR PERMIT APPEAL

AC DECISIONS:93-24 E & E Hauling_____**MOTIONS:**

AC 93-12 Dave & Earle Phillips - Respondents' Motion for
Reconsideration of July 1, 1993 Default Order (See
letter filed August 3, 1993) (CAM)

AC 93-20 Illinois Landfill - Agency motion to dismiss
Respondent Kenton Roderick (8/2) (CAM)

AC 93-21 City of Herrin - Respondent's Petition for Review
(7/14), Respondent's Motion to Dismiss (7/14),
Agency Objection to Respondent's Motion to Dismiss
(7/22) (CAM)

AC 93-25 Bernice Wallace - Complainant's Motion to Dismiss
(7/23) (CAM)

AS 88-2 Stepan Company - Petitioner's status report in
response to May 20, 1993 Board Order (7/26) (CAM)

AS 90-2 Shell Oil Company - Petitioner's Motion to Dismiss
(7/29) (MN)

AS 90-5 R. Lavin & Sons - Petitioner's status report in
response to May 5, 1993 Board Order (7/27), Agency
status report in response to May 5, 1993 Board
Order (7/27) (RCF)

AS 91-8 Reynolds Metals Company - Petitioner's status
report in response to July 1, 1993 Board Order
(CAM)

AS 93-3 Douglas Furniture of California - Agency Motion to
join as Co-Petitioner (8/3), Petitioner's
concurrence with Agency's Motion to join as Co-
Petitioner (8/3) (JA)

86-4 City of Morris - Petitioner's Motion for
Substitution of Attorneys (7/29), Petitioner's
Motion for Extension of Time to Respond (7/30) (RCF)

MOTIONS: (Cont'd)

- 88-52 City of Ottawa - Petitioner's Motion for Modification of August 4, 1988 and March 26, 1992 Board Orders (7/23), Agency Response to Motion for Modification (8/2) (RCF)
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- 90-27 Shell Oil Company - Petitioner's Motion to Dismiss (7/29) (CAM)
-
- 90-31 R. Lavin & Sons - Petitioner's status report in response to May 5, 1993 Board Order (7/27), Agency status report in response to May 5, 1993 Board Order (7/27) (RCF)
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- 90-182 Ronald & Susan Tex - Complainants' Motion for Reconsideration of June 17, 1993 Opinion and Order (7/12), Respondent's reply to Complainants' Motion for Reconsideration (7/19), Respondent's Motion for Reconsideration of June 17, 1993 Board Order (7/19), Complainants' Motion for leave to file Response Instanter (8/2) (GTG)
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- 91-49 LTV Steel Company - Petitioner's amended status report in response to an April 22, 1993 Board Order and Agreed Motion for Stay (7/22) (RCF)
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- 91-122 Condecor, Inc. - Joint Motion to Reconsider July 22, 1993 Board Order (7/26) (CAM)
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- 91-139 R. Lavin & Sons - Petitioner's status report in response to May 5, 1993 Board Order (7/27), Agency status report in response to May 5, 1993 Board Order (7/27) (RCF)
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- 91-162 Minnesota Mining & Manufacturing - Petitioner's status report in response to July 1, 1993 Board Order and Motion for Reconsideration (8/2) (BF)
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- 91-197 Cabot Corporation - Joint status report in response to January 21, 1993 Board Order and Agreed Motion to Continue Hearing (8/2) (CAM)
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MOTIONS: (Cont'd)

- 92-23 The Grigoleit Company - Petitioner's status report in response to June 17, 1993 Board Order (8/2) (JA)
-
- 92-26 Dale & Deborah Dettlaff - Complainants' Motion for Reconsideration of July 1, 1993 Board Order (8/2) (BF)
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- 92-29 Safety-Kleen Corporation - Petitioner's status report in response to April 22, 1993 Board Order (7/29), Agency's status report in response to April 22, 1993 Board Order (8/2) (CAM)
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- 92-67 Escast, Inc. - Joint status report in response to July 22, 1993 Board Order (8/2) (RCF)
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- 92-164 Berniece & Darwin Kershaw - Respondents' Motion for Reconsideration of April 8, 1993 Board Order (5/12) (GTG)
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- 92-200 Ron's Interstate Sunoco - Petitioner's Motion to Reconsider July 22, 1993 Board Order (8/2) (RCF)
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- 93-56 World Color Press - Complainant's Motion for Relief from Hearing Requirement (7/27) (JTM)
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- 93-58 L. Keller Oil Properties - Complainant's Motion for Summary Judgment (7/26) (JTM)
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- 93-60) Industrial Salvage - Petitioner's Motion for
93-61) Summary Judgment (8/2) (RCF)
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- 93-70 Joliet Park District - Agency's Motion for Summary Judgment and Memorandum of Law in Support of Motion for Summary Judgment (5/12), Petitioner's Motion to stay ruling on Agency's Motion for Summary Judgment (8/4) (JA)
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- 93-73 J & M Plating - Petitioner's Motion to Supplement Administrative Record (7/19), Petitioner's Motion to file Limited Number of Copies (7/20) (JA)
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MOTIONS: (Cont'd)

- 93-87 South Holland Metal Finishing - Respondent's Response to Motion to Strike Affirmative Defense and Response to Complainant's Response to Motion to Dismiss (7/6), Complainant's Reply to Respondent's Affirmative Defense (7/20), Respondent's Supplemental Motion to Dismiss (7/21), Complainant's Response to Respondent's Supplemental Motion to Dismiss (7/26) (BF)
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- 93-94 Cooper Tools - Motion to Request Relief from Hearing Requirement (7/29) (MN)
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- 93-101 Citizens Utilities Company - Petitioners' Joint Motion for Rehearing (7/13), Agency's Response to Petitioners' Joint Motion for Rehearing (7/22), Response of the Village of Bolingbrook in Opposition to the Joint Motion for Rehearing (7/26), Petitioners' Joint Motion for Leave to file Joint Reply Instanter (7/29) (GTG)
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- 93-105 Divane Brothers Electric Company - Petitioner's Motion for Summary Judgment (7/23) (RCF)
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- 93-111 Bocker Chevrolet Company - Agency Motion to File Record Instanter (7/26) (RCF)
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- 93-114 Browning-Ferris Industries - Ogle County Board's Motion directed at Petition (7/2), Respondent Browning-Ferris' Motion to Dismiss or Strike (7/8), Petitioner's Response to Motion directed at Petition (7/19), Petitioner's Response to Motion to Dismiss or Strike (7/19), County of Ogle's Motion regarding Standing and Jurisdiction and in the alternative for Summary Judgment on the basis of standing (7/27) (CAM)
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- 93-122 EMRO Marketing Company - Petitioner's Motion for Leave to Appear Pro Hac Vice (7/26) (JA)
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DISCUSSIONS:

- 90-137 Village of Roxana (JTM)_____
- 91-192 People of the State of Illinois v. Prairie Material
Sales (GTG) (Stipulation)_____
- AS 92-7 Illinois Power Company (BF)_____
- 92-142 Illinois Power Company (GTG)_____
- AC 92-64 City of Rochelle (CAM)_____
- (A & B)
- * 92-203 Chuck & Dan's Auto Service (CAM) (open waiver)

- * 93-84 Consolidation Coal Company (BF) (due 8/26)

- * 93-100 ZMC, Inc. (Omni Products) (RCF) (due 9/9)

- 93-134 People of the State of Illinois v. Ecologic, Inc.,
d/b/a Zinc Company of America (CAM) (Stipulation)

REGULATORY DISCUSSIONS:

- R90-1 Toxic Air Contaminants List, Styrene, Proposed
(D) Rule, First Notice, Proposed Opinion and Order
(CAM)_____
- R93-9 Omnibus Cleanup of the Volatile Organic Material
RACT Rules (JCAR Meeting August 17, 1993), Adopted
Rule, Final Order, Opinion and Order (BF)

- R93-10 RCRA Subtitle D Amendments, Adopted Rule, Final
Order, Opinion and Order (JA)_____

AMENDED PETITIONS:

- 93-106 Larry Slates et al. (filed 7/30) (See Motion to
Amend Petition filed 7/30) (JTM)

NEW CASES:

- 93-135 City of Springfield, Illinois v. EPA (MN)

- 93-136 Safety-Kleen Corporation (Caseyville Service
Center) v. EPA (CAM)

- 93-137 Safety-Kleen Corporation (Caseyville
Service/Accumulation Center) v. EPA (JA)

- 93-138 Safety-Kleen Corporation (Urbana Service Center
Facility) v. EPA (JA)

- 93-139 The Ensign-Bickford Company v. EPA (CAM)

- 93-140 CP Inorganics, Inc. v. EPA (BF)

- 93-142 Haco, Inc. v. EPA (RCF)

- 93-143 DuPage Enterprises, Inc. v. EPA (JTM)

- 93-144 People of the State of Illinois v. Anchor Glass
Container Corporation (See also Agreed Motion
Requesting Relief from Hearing Requirement filed
7/30) (CAM)

NEW AC CASES:

- 93-29 County of Jackson v. Patrick Cheak _____
- 93-30 Sangamon County v. The Illinois National Bank of
Springfield et al. _____

AC APPEALS:

- 93-27 Oliver A. Smith (BF) _____

NEW ADJUSTED STANDARDS:

93-4 Conversion Systems, Inc. (See Agency Motion to Dismiss filed 7/20 and Petitioner's Response to Agency Motion to Dismiss filed 7/20) (JA)

93-5 Conversion Systems, Inc. (See Agency Motion to Dismiss filed 7/20, Petitioner's Response to Agency Motion to Dismiss filed 7/20 and Agency Motion for Leave to file and Modification to Motion to Dismiss filed 7/21) (JA)

93-7 Douglas Furniture of California (See Petitioner's Motion for Stay filed 8/2) (JA)

MINUTES:

July 22, 1993 _____

July 29, 1993 (Special Board Meeting) _____