

## ILLINOIS POLLUTION CONTROL BOARD

### MINUTES OF REGULAR BOARD MEETING FEBRUARY 3, 1994 CHICAGO, ILLINOIS

After calling the meeting to order, Chairman Manning welcomed and introduced Audrey Lozuk, who is working as a law clerk in the Chicago Office, and Kevin Desharnais, the new assistant to Board Member Marili McFawn. Chairman Manning then announced the resignation of Board Member Michael Nardulli, effective February 15, 1994, thanked Mr. Nardulli for his valuable contributions to the Board, and wished him success in his future endeavors. All Board Members were present.

An order was adopted in #AC 93-6(Docket B), Ruth & Steve Sheppard, by a vote of 7-0. (CAM)

An opinion and order was adopted in #93-162, Wilmer Brockman, Jr., by a vote of 7-0. (GTG)

An opinion and order was adopted in #93-256, People of the State of Illinois v. Greif Brothers, Inc., by a vote of 7-0. J. Theodore Meyer concurred. (CAM)

An opinion and order was adopted in #93-259, People of the State of Illinois v. World's Finest Chocolate, Inc., by a vote of 7-0. (CAM)

An opinion and order was adopted in #93-262, People of the State of Illinois v. Koch Fuels, Inc., d/b/a Koch Materials Company, by a vote of 7-0. J. Theodore Meyer concurred. (CAM)

An opinion and order was adopted in #93-263, People of the State of Illinois v. United Globe Nippon, Inc., by a vote of 7-0. J. Theodore Meyer concurred. (CAM)

A Proposed Rule, First Notice, Opinion and Order was adopted in R87-33, Amerock Effluent Standard, by a vote of 6-0. M. McFawn abstained. (JTM)

An Adopted Rule, Final Order, Opinion and Order was adopted in R92-17, U.S. Army Corps River Dredging, by a vote of 7-0. (RCF)

A Default Order was adopted in this Administrative Citation by a vote of 7-0: #93-64, EPA v. Otto L. Myles.

Agency motion to dismiss was granted in #AC 94-1, Elmer Meints, by a vote of 7-0. (CAM)

An order directing the parties to file a status report with the Board and the Hearing Officer on or before March 11, 1994, detailing a projected timeline for completion or settlement, was adopted in #AS 90-5, R. Lavin & Sons, by a vote of 7-0. (RCF)

An order directing the parties to file a status report with the Clerk of the Board and the Hearing Officer on or before February 24, 1994, indicating the status of any ongoing negotiations, whether the parties anticipate reaching a settlement, and if possible, a projected timeline for completion of the settlement.

An order granting the Complainants' motion for an extension of time until January 19, 1994, to file their response to the Respondent's noise control studies, was adopted in #91-195, Scott and Karen Thomas, by a vote of 7-0. (MN)

An order granting the parties to file an updated status report on or before August 1, 1994, and also directing the parties to keep the Board advised of any decision or action by the USEPA concerning the capture efficiency protocol in the interim, was adopted in #91-162, Minnesota Mining and Manufacturing Company, by a vote of 7-0. (MCCF)

An order directing the parties to file a status report with the Board and the Hearing Officer on or before March 11, 1994, detailing a project timeline for completion or settlement, was adopted in #91-139, R. Lavin & Sons, by a vote of 7-0. (RCF)

An order directing the Petitioner and the Agency to file updated status reports on or before March 11, 1994, was adopted in #91-94, Safety-Kleen Corporation, by a vote of 7-0. (CAM)

An order directing the Petitioner to file an updated status report no later than March 25, 1994, was adopted in #91-28, -92-2, Acme Steel Company, by a vote of 7-0. (JTM)

An order directing the Petitioner on or before March 11, 1994, detailing a project timeline for completion or settlement, was adopted in #90-31, R. Lavin & Sons, by a vote of 7-0. (RCF)

An order directing the parties to file a status report with the Board and the Hearing Officer on or before March 11, 1994, detailing a project timeline for completion or settlement, was adopted in #89-184, The Grigoleit Company, by a vote of 7-0. (CAM)

In #89-184, the Petitioner, filing of a supplemental sanctions motion, was adopted for order concerning the sanctions amount and the motion for the Petitioner's remaining requests for relief in the to resolve those automatically imposed by law, and reserving jurisdiction over other orders, to issue the Agency to, without any special conditions of for order, directing the Petitioner's remaining requests for relief in the order, to clarify numerous agency concurrences, granting Petitioner's motion to clarify documentation to the Board on or before February 24, 1994, and/or documentation to submit additional information to clarify agency concurrences, granting Petitioner's motion to file a reply, directing the Petitioner's motion for leave to file a

An order granting the Petitioner's motion for leave to file a pursuant to Section 28.1(d)(1) of the Act, was amended petition proof that the Petitioner filed notice of its amended petition Akzo Chemicals, Inc., by a vote of 7-0. (GTC)

An order granting the Petitioner's motion for an extension of time until February 28, 1994, to respond to the Agency's motion for summary judgment, was adopted in #93-104, Griffin Service, by a vote of 7-0. (MN)

An order directing the Petitioner to file an updated status report before May 13, 1994, in the event that the appeal has not been previously dismissed, was adopted in #93-99, LTV Steel Company, by a vote of 7-0. (ED)

An order directing the Petitioner to file a status report on or before February 24, 1994, and advising the parties that if no status report is filed, the matter may be subject to dismissal, was adopted in #93-29, 5566 Building Partnership, by a vote of 7-0. (CAM)

An order directing the parties to file a status report on or before January 1, 1994, and advising the Board to no motion to dismiss is included at that time, the Board will set the matter for hearing in #93-16, Beloit Corporation, by a vote of 6-0. (ETG)

An order granting the Petitioner's motion for an extension of time until May 12, 1994, to file its closing brief, was adopted in #93-1, Pekin Metro Landfill, by a vote of 7-0. (MNCF)

An order directing the Agency to file a status report with the Board and the Hearing Officer on or before February 10, 1994, which shall include an explanation for the Agency's failure to respond to the Hearing Officer's inquiry and order was adopted in #92-216, Department of the Army, by a vote of 7-0. (MN)

An order granting the Petitioner's motion for an extension of time until May 12, 1994, to file its closing brief, was adopted in #92-212, Pekin Metro Landfill, by a vote of 7-0. (MNCF)

An order denying the Petitioner's request for attorney fees, and pursuant to the Petitioner's request, instructing the Hearing Officer to set the matter for hearing after consultation with the parties, was adopted in #92-199, Twomey Company, by a vote of 7-0. (ED)

An order denying the Petitioner's request for attorney fees, and leaving to take an interlocutory appeal, denying the Respondents' motion for an expedited approval of its proposed noise abatement plan, and denying the Respondents' request to vacate the order scheduling the February 8 through 10, 1994 hearings, was adopted in #92-178, John and Jean Zarlenga, by a vote of 7-0. (MNCF)

was adopted in #91-219, General Motors Corporation, by a vote of 7-0. (CAM)

In amended petitions, these actions were taken by a vote of 7-0:

These cases were discussed and ordered held to February 17, 1994 for further discussion or possible decission: #AS 92-8, Cabot Corporation; 92-80, Lake County Forest Preserve District; AS 93-7, Keystone Steele and Wire; ##93-60, -61, Industrial Salvage, Inc.; 93-118, People of the State of Illinois v. Marsco Manufacturing Company; 94-16, People of the State of Illinois v. Central Illinois Company; 94-17, People of the State of Illinois v. Newton Unit #1 and #2); 94-17, People of the State of Illinois v. Public Service (Newton Unit #1 and #2); 94-20, People of the State of Illinois v. Olin Corporation; 94-39, People of the State of Illinois v. Gerald V. Johnson, d/b/a Jerry's; 94-39, People of the State of Illinois v. State of Illinois. Top Disposal Service, Inc.; R93-26, Amendments to the New Source Review Rules, Proposed Rule, Second Notice.

An extension of time order was adopted in R93-20, Pre-treatment update, by a vote of 7-0. (JTM)

Petitioner's motion to lift the stay and schedule the proceeding for hearing, was adopted in R93-13, General Motors Corporation, by a vote of 7-0. (CAM)

An extension of time order was adopted in R92-18, Contingency Plan update, by a vote of 7-0. (CAM)

An order granting the Petitioner's motion to voluntarily dismiss and noting that the Petitioner's motion to consolidate is moot was adopted in #94-23, Greater Rockford Airport Authority, by a vote of 7-0. (GETG)

An order denying the Respondent's motion for severance of County IV for the Blue Island facility, was adopted in #93-250, Clark Oil and Refining Corporation, by a vote of 7-0. (ED)

An order granting the Agency's motion for leave to file limited copies of the Agency's record, was adopted in #93-215, Marvin Damron, by a vote of 7-0. (TRG)

An order granting the Agency's motion for an extension of time until February 11, 1994, to file the Agency recommendation, was adopted in #93-196, TRW, Inc., by a vote of 7-0. (JTM)

An order granting the Petitioner's motion for dismissal, was adopted in #93-174, Applied Composites, by a vote of 7-0. (MN)

An order granting the petitioner's motion for leave to file instant  
in #93-151, Mobil Oil Corporation, by a vote of 7-0. (JTM)

An order granting the Petitioner's motion for voluntary dismissal, was adopted in #93-121, Gunite Corporation, by a vote of 7-0. (GTC)



Paper filing requirement granted, order by C.A. Manning; 94-48, Shell Oil Company V. EPA, provisional variance granted, order by C.A. Manning; 94-49, Ted Horton Chevron, order by C.A. Manning; 94-50, The Finishing Company V. EPA, provisional variance granted; 94-51, Rodney B. Nelson, III, M.D., Kane County, Kane County Board and Waste Management of Illinois, order by C.A. Manning; 94-51, James Bennett and Kerry J. Henson.

These administrative citations were accepted by the Board: #94-4, minutes of the January 20, 1994 Board Meeting were approved by a vote of 7-0.

All other matters not disposed of as listed were ordered held to February 17, 1994 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above minutes were approved this day of February 17, 1994, by a vote of 6-0.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

\* INDICATES VARIANCE OR PERMIT APPEAL

AC	93-6	Ruth and Steve Sheppard (CAM)	DECISIONS:
93-162	Wimmer Brockman, Jr. (GTE) (due)	People of the State of Illinois v. Great Brothers, Inc. (CAM) (Stipulation)	
93-256	People of the State of Illinois v. World's Finest Chocolate, Inc. (CAM) (Stipulation)	People of the State of Illinois v. Koch Fuels, Inc. d/b/a Koch Materials Company (CAM) (Stipulation)	
93-259	People of the State of Illinois v. World's Finest Chocolate, Inc. (CAM) (Stipulation)	People of the State of Illinois v. United Globe Nippom, Inc. (CAM) (Stipulation)	
93-262	People of the State of Illinois v. Koch Fuels, Inc. d/b/a Koch Materials Company (CAM) (Stipulation)	AmericoK Effluent Standard, Proposed Rule, First Notice, Opinion and Order (JTM)	R87-33
93-263	People of the State of Illinois v. United Globe Nippom, Inc. (CAM) (Stipulation)	U.S. Army Corps River Dredging, Adopted Rule, Final Order, Opinion and Order (RCF)	R92-17

ILLINOIS POLLUTION CONTROL BOARD  
FINAL AGENDA  
FEBRUARY 3, 1994 CHICAGO, ILLINOIS  
CONFERENCE ROOM 9-040  
10:30 A.M.

		MOTIONS:
AC	93-46	Robert C. Waldron, Jr. - Motion to Reconsider November 18, 1993 Default Order (See Response Letter filed 1/31) (CAM)
AC	94-1	Elmer Meints - Agency Motion to Dismiss (2/1) (CAM)
AS	90-5	R. Lavin & Sons - Petitioner's Status Report in Response to October 21, 1993 Board Order (1/25) (RCF)
AS	93-1	Quantum Chemical Corporation - Petitioner's Status Report in Response to December 16, 1993 Board Order (2/1) (CAM)
AS	93-8	Akzo Chemicals, Inc. - Board Order (GTC)
89-184		The Grigoleit Company - Petitioner's Motion for Order Assessing Sanctuaries and Remandment for Leave to File Reply to the Response (1/26) (CAM)
90-31		R. Lavin & Sons - Petitioner's Status Report in Response to October 21, 1993 Board Order (1/25), Agency Status Report in Response to October 21, 1993 Board Order (1/25) (RCF)
91-7		Land and Lakes Company - Petitioner's Motion for Release of Record (2/2) (MN)
92-25		92-28) Acme Steel Company - Joint Status Report in Response to November 4, 1993 Board Order (1/28) (JTM)

John and Jean Zarlegna - Respondents, Motion for Leave to take Interlocutory Appeal of Hearings Appointed to Compel Production of Documents (1/10), Response to Compel Interlocutory Appeal of Hearing Officer's Order on Compellants, Motion to Compel Production of Documents (1/10), Response to Expedited Motion to Approve Implementation of Respondents' Proposed Noise Abatement Plan (1/26) (MCF)

92-178

Escast, Inc. - Compellant's Status Report in Response to November 18, 1993 Board Order (1/18), Compellant's Status Report in Escast, Inc. (1/21) (RCF)

92-67

General Motors Corporation - Status Report Order (CAM)

91-219

Scott and Karen Thomas - Compellant's Motion for a Short Extension of Time to Respond to August 5, 1993 Interim Opinion and Order (1/14), Compellant's Response to Consultants, Report and Recommendations in Response to an August 5, 1993 Interim Opinion and Order (1/19), Compellant's Response to File Instanter Report and Recommendation (1/27) (MN)

91-195

Minnesota Mining and Manufacturing - Petitioner's Status Report in Response to August 26, 1993 Board Order (1/24) (MCF)

91-162

R. Lavin & Sons - Petitioner's Status Report in Response to October 21, 1993 Board Order (1/25), Agency Status Report in Response to October 21, 1993 Board Order (1/25) (RCF)

91-139

Safety-Kleen Corporation - Petitioner's Status Report in Response to December 16, 1993 Board Order (2/1) (CAM)

91-94

MOTIONS: (Cont'd)

93-199	TWOMEY COMPANY - Petitioner's Motion to File Status Report in Response to December 2, 1993 Board Order (1/5) (ED)
92-212	PEKIN METRO LANDFILL - Extension of Briefing Schedule (1/13) (MMC/F)
92-216	Department of the Army - Status Report Order (MN)
93-1	PEKIN METRO LANDFILL - Petitioner's Motion for Extension of Briefing Schedule (1/13) (MMC/F)
93-16	BELLOT CORPORATION - Joint Status Report in Response to October 7, 1993 Board Order (1/21) (GETG)
93-29	5566 BUILDING PARTNERSHIP - Status Report Order (CAM)
93-99	LTV STEEL COMPANY - Petitioner's Status Report in Response to November 18, 1993 Board Order (2/1) (ED)
93-104	GRIFFIN SERVICE - Petitioner's Motion for Extension of Time to Respond to Agency's Motion for Summary Judgment and to Comply with Order of January 6, 1994 (1/31) (MN)
93-121	GUINTEE CORPORATION - Petitioner's Motion for Voluntary Dismissal (2/2) (GETG)
93-124	TOLLES REALTY COMPANY - Petitioner's Status Report in Response to July 1, 1993 Board Order (1/3), Petitioner's Motion for Summary Judgment (1/14) (ED)
93-139	THE ENSIGN-BICKFORD COMPANY - Agency Motion to Extend Time to File Agency Record (2/2) (CAM)

MOTIONS: (cont'd)

	MOTIONs:	(Cont'd)
93-151	Mobil Oil Corporation - Petitioner's Motion for Permata-Treat of Illinois - Agency Motion for Reconsideration of December 16, 1993 Board Order	Leave to file instant Petitioner's Reply to the Agency's Post-Hearing Brief (2/1) (JTM)
93-159	Permit of Illinois - Agency Motion for Dismissal of Permit Appeal (1/24) (JTM)	Leave to file instant Petitioner's Reply to the Agency's Post-Hearing Brief (2/1) (JTM)
93-174	Appointed Composites - Petitioner's Motion for Dismissal of Permit Appeal (1/28) (JTM)	Leave to file instant Petitioner's Reply to the Agency's Post-Hearing Brief (2/1) (JTM)
93-196	TRW, Inc. - Agency Motion for Extension of Time to file Recommendation (1/21) (JTM)	Leave to file instant Petitioner's Reply to the Agency's Post-Hearing Brief (2/1) (JTM)
93-215	Marvin Damron - Agency Motion for Leave to file Limited Copies of Record (2/2) (GTC)	Leave to file instant Petitioner's Reply to the Agency's Post-Hearing Brief (2/1) (JTM)
93-225	Parkview Metal Products - Complainant's Status Report in Response to December 3, 1993 Board Order (1/24) (MN)	Leave to file instant Petitioner's Reply to the Agency's Post-Hearing Brief (2/1) (JTM)
93-250	Clark Oil & Refining Corporation - Respondent's Motion for Severance (1/20) (ED)	Leave to file instant Petitioner's Reply to the Agency's Post-Hearing Brief (2/1) (JTM)
94-23	Greater Rockford Airport Authority - Petitioner's Motion to Consolidate Claims (1/20), Gunite Corporation's Brief in Opposition to Petitioner's Motion to Consolidate (1/24), Petitioner's Response to Gunite Corporation's Brief in Opposition to Petitioner's Motion to Consolidate (1/20), Petitioner's Motion to Consolidate (1/20), Petitioner's Motion to file Voluntary Dismissal (2/2) (GTC)	Leave to file instant Petitioner's Reply to the Agency's Post-Hearing Brief (2/1) (JTM)
94-26	Marathon Oil Company - Petitioner's Application for Designation as "Not Subject to Disclosure" (1/14)	Leave to file instant Petitioner's Reply to the Agency's Post-Hearing Brief (2/1) (JTM)
94-27	Marathon Oil Company - Petitioner's Application for Designation as "Not Subject to Disclosure" (1/14)	Leave to file instant Petitioner's Reply to the Agency's Post-Hearing Brief (2/1) (JTM)
R92-18	Continuing Plan Update - Extension of Time Order (CAM)	Leave to file instant Petitioner's Reply to the Agency's Post-Hearing Brief (2/1) (JTM)

	MOTIONS:
R93-13	Lift Stay and Schedule Proceeding (1/28) (CAM) General Motors Corporation - Petitioner's Motion to
R93-20	Pretreatment Update - Extension of Time Order (JTM)
AS 92-8	Cabot Corporation (RCF)
92-80	Lake County Forest Preserve District (JTM)
AS 93-7	Keystone Steel and Wire (ED)
* 93-60)	Industrial Salvage, Inc. (RCF) (due 2/17)
93-118	People of the State of Illinois v. Marasco Manufacturing Company (See also Joint Motion to Withdraw Stipulation and Propose Motions to Relief from Hearing Requirement filed 1/26) (MCR)
94-16	People of the State of Illinois v. Central Illinois Public Service (Newton Unit #1 and #2) (CAM)
94-17	People of the State of Illinois v. Olin Corporation (CAM) (Stipulation)
94-20	People of the State of Illinois v. Gerald V. Johnson, d/b/a Jerry's (CAM) (Stipulation)
94-39	People of the State of Illinois v. Top Disposal Service, Inc. (CAM) (Stipulation)

#### DISCUSSIONS:

FINAL AGENDA FEBRUARY 3, 1994 6

	AMENDED PETITIONS:
R93-26	Regulatory Discussions:
R93-26	Proposed Rule, Second Notice, Opinion and Order (GTE) Amendments to the New Source Review Rules, Proposed
93-232	David Geuther et al. (See Petitioner's Motion to Supplement Petition for Review filed 1/19; Agency Response to December 2, 1993 Board Order filed 1/20; Agency Motion to file Record Instanter filed 1/21; Agency Timeliness of Appeal filed 1/19) (MN)
93-260	Glenbard Water Authority (filed 1/28) (ED)
94-19	Michael Turlek et al. (filed 2/1) (MCF)
94-21	Alice Zeman & Kay Kulaga (filed 2/1; (See also Appearance by Alice Zeman filed 2/2 in response to January 20, 1994 Board order) (Consolidated with PCB 94-19 and 94-22) (MCF)
94-22	Citizens for a Better Environment et al. (filed 1/31) (Consolidated with PCB 94-19 and 94-21) (MCF)

94-247	Valerie Johnson, Michael Bremerton, Cheryl Johnson v. Emergency Preparedness & Disaster Services, Chicago Fire Department, City of Chicago (See Respondents, Motion to Dismiss Petition for Hearing Department, Motion to Dismiss Request for Information filed 12/20; City of Chicago and Chicago Fire Department, Response to Request for Information filed 12/20; City of Chicago and Chicago Fire Department, Response to Petition for Hearing City's Motion to Dismiss Petition for Response to the Chicago Fire Department's Motion to Dismiss (See Waiver of Filing Requirements filed 1/20; (See also Complaint Jerold Leckman, s Motion for Northbrook Sports Club, and Village of Hainesville Anne Shepard, James Verhein, and Jerold Leckman v. 94-2
94-25	Shell Oil Company v. County of DuPage and EPA (See also Petitioner's Motion for Expedited Hearing filed 1/13; Agency Motion to File Expedited Hearing in Opposition to Petitioner's Motion for Expedited Hearing with Supporting Memorandum filed 2/1; Instanter Motion in Opposition to Petitioner's Motion for Expedited Hearing filed 2/1) (See also Petitioner's Motion to File Expedited Hearing filed 1/13; Agency Motion to File Expedited Hearing in Opposition to Petitioner's Motion for Expedited Hearing with Supporting Memorandum filed 2/1; Instanter Motion in Opposition to Petitioner's Motion for Expedited Hearing filed 2/1) (See Madison Group 90 v. Office of the Illinois State Fire Marshal (CAM) 94-42
94-43	American Tree Service, Inc. v. EPA (CAM) 94-44
	Concerned Citizens For a Better Environment v. City of Havana and Southwest Energy Corporation (CAM)

NEW CASES:

January 20, 1994

MINUTES:

94-5 EPA v. James Bennett and Jerry J. Henson

94-4 County of DuPage v. Waste Management of Illinois

NEW AC CASES:

94-51 Rodney B. Nelson, III, M.D. v. Kane County Board and Waste Management of Illinois

94-50 The Finishing Company v. EPA (Provisional Variance) (CAM)

94-49 Ted Horton Chevrolet v. EPA (CAM)

94-48 Shell Oil Company v. EPA (Provisional Variance) (CAM)

94-47 Dart Container Corporation of Illinois v. EPA (See also Petitioner's Motion for Waiver of Recycled Paper Filing Requirement Filed 1/28) (CAM)

94-46 Benet Academy v. Office of the Illinois State Fire Marshal (CAM)

94-45 Metropolitan Airport Authority of Rock Island County v. Office of the Illinois State Fire Marshal (CAM)

NEW CASES: (Cont'd)