#### ILLINOIS POLLUTION CONTROL BOARD

### MINUTES OF REGULAR BOARD MEETING MARCH 21, 1996 CHICAGO, ILLINOIS - 12:00 NOON

After calling the meeting to order by teleconference, Chairman Manning welcomed members of the public and staff to the meeting and acknowledged the presence of staff members Musette Vogel, Karen Lukow, and Mike Wallace. Thereafter, the Clerk was asked for a roll call and Board Members E. Dunham, R.C. Flemal, G. Tanner Girard, M. McFawn, J. Theodore Meyer and J. Yi answered present from the Chicago office, and Chairman C. Manning answered present from the Springfield office.

Minutes of the March 7, 1996 Meeting were approved by a vote of 7-0.

In R94-1(A), Triennial Water Quality Review: Amendments to 35 Ill. Adm. Code 302.208 and 302.407 (Lead and Mercury), a Proposed Rule, Second Notice, Opinion and Order, was adopted by a vote of 7-0. (ED)(CAM)(RCF)

In R95-22, Wastewater Pretreatment Update, USEPA Regulations (January 1, 1995 through June 30, 1995), an Adopted Rule, Final Order, Opinion and Order, was adopted by a vote of 7-0. **(ED)** 

In R96-13, 15% ROP Plan: Clean-up Part II: Amendments to 35 Ill. Adm. Code Parts 218 and 219, a Proposed Rule, Second Notice, Opinion and Order, was adopted by a vote of 7-0. (JTM)

A docket was reserved in R96-16, Regulations from the Definitions of VOM, USEPA Amendments (Perchlorethylene), pursuant to a letter from the Halogenated Solvents Industry Alliance a February 7, 1996 USEPA Rule.

An Order accepting the petitioner's status report in response to a December 7, 1995 Board order, granting a stay of the matter until the USEPA approves the amendments to 35 Ill. Adm. Code 218, Subpart DD, and directing the petitioner to file a status report on or before June 19, 1996 which shall include a synopsis of the activity in the matter, was adopted in #AS 94-6, Petition of Hydrosol, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 218 Subpart DD, by a vote of 7-0. (JTM)

An Opinion and Order was adopted in #AS 95-1, Petition of Tommy House Tire Company, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 848.202(b)(2) and (b)(5), by a vote of 7-0. (McF)

An Opinion and Order was adopted in ##94-243, - 306, - 307, - 308, - 309, 95-133, - 134, ESG Watts, Inc. v. IEPA, by a vote of 4-3. Messrs. G. Tanner Girard, E. Dunham, and J. Theodore Meyer dissented. (CAM)

An Opinion and Order was adopted in #95-112, John C. Justice, d/b/a Microcosm v. IEPA, by a vote of 7-0. (CAM)

An Opinion and Order was adopted in #96-91, SPILL, Madison County Conservation Alliance, Sierra Club, Nameoki Township Clerk Helen Hawkins, Kathy Andria, Shirley Crain, Glenda Fulkerson, John Gall, Thelma Orr, Ron Shaw and Peal Stogsdill v. City of Madison and Metro-East, L.L.C., by a vote of 7-0. J. Theodore Meyer concurred. (McF)

An Opinion and Order was adopted in #96-161, City of Geneva v. IEPA, by a vote of 7-0. (RCF)

Because a petition for review was received, this Administrative Citation will be set for hearing: #96-37, IEPA v. Midwest Excavating, Inc.

An Order granting the Agency's motion to voluntarily withdraw the Administrative Citation, was adopted in #96-40, IEPA v. City of Mound City, Rosetta Boykin, and Walter Boykin, by a vote of 7-0.

An Order denying respondent Oberweis Dairy's motion for reconsideration of the Board's February 1, 1996 order granting respondent Amoco Oil's motion to summarily strike Oberweis' response to Amoco's Request to Admit, was adopted in #95-122, Olive Streit and Lisa Streit v. Oberweis Dairy, Inc., Richard J. Fetzer and Johnnie W. Ward, d/b/a Serve-N-Save, and Richard J. Fetzer, individually, Amoco Oil Company, and Mobil Oil Corporation, by a vote of 7-0. (CAM)

An Order directing the Clerk of the Board to publish the required newspaper notice of an agreed motion to request relief from the hearing requirement, was adopted in #95-175, People of the State of Illinois v. Polymer Color, Inc., by a vote of 7-0. (JTM)

An Order granting the petitioner's motion to voluntarily dismiss its permit appeal and closing the docket, was adopted in #95-182, Carl and Edna Ball, d/b/a C & E Recycling and Resource Recovery v. IEPA, by a vote of 7-0. (GTG)

An Order granting the petitioner's motion for leave to file a motion in excess of 15 pages in length, was adopted in #96-52, Raleigh Realty Corporation v. IEPA, by a vote of 7-0. (JTM)

An Order denying the respondent's motion to dismiss and request for oral argument, and granting both of the complainants' motions to strike the respondent's reply memoranda, was adopted in #96-76, People of the State of Illinois v. Chemetco, Inc., by a vote of 5-2. Messrs. E. Dunham and J. Theodore Meyer dissented. (CAM)

An Order granting an agreed motion for reconsideration and modification of its March 7, 1996 Order, was adopted in #96-32, People of the State of Illinois v. Harper-Wyman Company, by a vote of 7-0. **(ED)** 

An Order granting the Agency's motion to supplement the administrative record, was adopted in #96-86, BFI Modern Landfill #1 and #2 v. IEPA, by a vote of 7-0. (McF)

An Order granting the Agency's motion to postpone filing an Answer and Record until June 28, 1996, was adopted in #96-99, THF Belleville Development, L.P. v. IEPA, by a vote of 7-0. (JY)

An Order accepting the petitioner's amended petition, waiving the hearing requirement and noting that the filing of the amended petition restarted the decision timeclock in the matter, was adopted in #96-174, The Knapheide Manufacturing Company v. IEPA, by a vote of 7-0. (JTM)

An Order finding that the complaint is neither duplications nor frivolous, and accepting the matter for hearing, was adopted in #96-180, Environmental Site Developers, Inc. v. White & Brewer Trucking, Inc., by a vote of 6-0. Chairman C.A. Manning abstained. (McF)

An Order finding that the complaint is neither duplicitous nor frivolous, and accepting the matter for hearing, was adopted in #96-185, Douglas and Barbara Oltman v. Terry and Kelly Cowan, by a vote of 7-0. (GTG)

An Order directing each party in the proceeding to file a brief with the Board and on the opposing parties on or before May 3, 1996, addressing whether the complained of activity is an "organized amateur or professional sporting activity" and whether the claim alleges violations of the Act which fall within the Board's purview, was adopted in #96-186, Mr. & Mrs. Don Williams, Mr. & Mrs. Thomas Morris and Mrs. Peter Bizios v. Schaumburg Park District, by a vote of 7-0. (ED)

An Order extending the 35-day appeal period, reserving the docket for any appeal which may be filed by the petitioner, noting that in the event that the petitioner fails to file an appeal on or before May 8, 1996, the Board will dismiss the docket as unnecessary, and advising the petitioner that a \$75.00 filing fee will be required at such time as the petitioner files a petition, was adopted in #96-192, Laidlaw Waste Systems v. IEPA, by a vote of 7-0. (CAM)

An Order accepting the matter for hearing, was adopted in #96-193, W.R. Grace & Company - Connecticut v. IEPA, by a vote of 7-0. (CAM)

An Order accepting the matter for hearing, was adopted in #96-194, The D.B. Hess Company, Inc. v. IEPA, by a vote of 7-0. (CAM)

A provisional variance was granted in #96-196, Wisconsin Steel Works v. IEPA, by a vote of 7-0. **(CAM)** 

An Order extending the 35-day appeal period, reserving the docket for any appeal which may be filed by the petitioner, noting that in the event that the petitioner fails to file an appeal on or before May 8, 1996, the Board will dismiss the docket as unnecessary, and advising the petitioner that a \$75.00 filing fee will be required at such time as the petitioner files a petition, was adopted in #96-197, Maggio Truck Center, Inc. v. IEPA, by a vote of 7-0. (CAM)

An Order accepting the matter for hearing, was adopted in #96-198, Land and Lakes Company v. IEPA, by a vote of 7-0. (CAM)

#### <u>ADDENDUM</u>

An Opinion and Order accepting the Stipulation and Proposal for Settlement in the amount of \$2,500.00, was adopted in #96-122, People of the State of Illinois v. Eugene Grothaus, by a vote of 7-0. (JTM)

This Administrative Citation was accepted by the Board: #96-41, IEPA v. Dwight W. Davis, d/b/a D & L Rubber Works.

An Order dismissing the docket as unnecessary, was adopted in #96-135, Schilling Petroleum Company v. IEPA, by a vote of 7-0. (CAM)

An Order dismissing the docket as unnecessary, was adopted in #96-152, Burlington Northern Railroad v. IEPA, by a vote of 7-0. (CAM)

An Order extending the 35-day appeal period, reserving the docket for any appeal which may be filed by the petitioner, noting that in the event that the petitioner fails to file an appeal on or before May 13, 1996, the Board will dismiss the docket as unnecessary, and advising the petitioner that a \$75.00 filing fee will be required at such time as the petitioner files a petition, was adopted in #96-199, Aurora Electronics, Inc. v. IEPA, by a vote of 7-0.

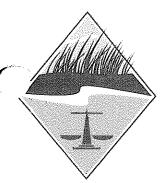
All other matters not disposed of as listed were held.

Moved and seconded, with a vote of 7-0, the meeting was adjourned at 12:45 p.m.

I, Dorothy M. Gunn, Clerk		<b>Pollution</b>	Control Board,	hereby certify that the
above Minutes were approved this	40	_day of	april	, 1996, by a vote
of <u>7-0</u> .				

Dorothy M. Gunn, Clerk

Illinois Polluțion Control Board



# Illinois Pollution Control Board

James R. Thompson Center ◆ Suite 11-500 ◆ 100 West Randolph Street ◆ Chicago, Illinois 60601 

#### GOVERNOR Honorable Jim Edgar

## REGULAR MEETING AGENDA MARCH 21, 1996 CHICAGO, ILLINOIS **CONFERENCE ROOM 9-040** 12:00 NOON

#### **ADDENDUM**

# **CHAIRMAN**

Claire A. Manning Springfield

#### **DECISIONS**

#### MEMBERS

Emmett E. Dunham II Elmhurst

> Ronald C. Flemal DeKalb

G. Tanner Girard Grafton

> Marili McFawn Inverness

J. Theodore Meyer Chicago

> Joseph C. Yi Park Ridge

96-122 People of the State of Illinois v. Eugene

Grothaus - Stipulation

(JTM)

#### ADMINISTRATIVE CITATIONS

AC 96-41

IEPA v. Dwight W. Davis, d/b/a D & L Rubber Works - Accept Case - No Order

#### MOTIONS

#### SPRINGFIELD OFFICE

600 South Second Street Suite 402 Springfield, Illinois 62704 217-524-8500 Fax 217-524-8508

96-85

The County of Kane, Illinois and Waste Management of Illinois, Inc. v. IEPA - Agency's Response to Petitioner's Motion to Reconsider or Clarify (3/20)

(CAM)

#### SATELLITE OFFICES

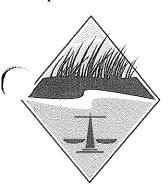
110 South State Jerseyville, Illinois 62052 618-498-9802 Fax 618-498-5934

148 North Third Street P.O. Box 505 DeKalb, Illinois 60115 815-753-1904 Fax 815-753-1970



# CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS

96-135	Schilling Petroleum Company v. IEPA - Dismissal Order	(CAM)
96-152	Burlington Northern Railroad v. IEPA - Dismissal Order	(CAM)
96-199	Aurora Eletronics, Inc. v. IEPA - Joint 90-Day Extension Request (3/19)	(CAM)



# Illinois Pollution Control Board

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#### GOVERNOR Honorable Jim Edgar

#### CHAIRMAN Claire A. Manning Springfield

#### MEMBERS Emmett E. Dunham II

Elmhurst

Ronald C. Flemal DeKalb

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# AGENDA MARCH 21, 1996 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 12:00 NOON

#### **Announcements**

The Pollution Control Board welcomes the public to this open meeting. During the meeting itself, only the Board members or staff that are recognized by the Chairman are allowed to speak. If you have any questions about anything that occurred at the meeting, please feel free, after the meeting, to direct your questions to any one of the many staff members in attendance.

Appearance of an item on the agenda does not guarantee that the Board will take action on that item, since the Board may decide to hold the item over for additional review and action at a later meeting. Dates of future meetings of the Board appear on the last page of this agenda. Thank you for your interest.

#### Roll Call

#### **Minutes**

March 7, 1996



# **REGULATIONS AND ADJUSTED STANDARDS**

R94-1(A)	Triennial Water Quality Review: Amendments to 35 Ill. Adm. Code 302.208 and 302.407 (Lead and Mercury) - Proposed Rule, Second Notice, Opinion and Order	(ED)
R95-22	Wastewater Pretreatment Update, USEPA Regulations (January 1, 1995 through June 30, 1995) - Proposed Rule, Second Notice, Opinion and Order	(ED)
R96-13	15% ROP Plan: Clean-up Part II: Amendments to 35 Ill. Adm. Code Parts 218 and 219 - Proposed Rule, Second Notice, Opinion and Order	(JTM)
R96-16	Regulations from the Definitions of VOM, USEPA Amendments (Perchlorethylene) - DOCKET RESERVED (See letter from Halogenated Solvents Industry Alliance regarding February 7, 1996 USEPA Rule)	(GTG)
AS 94-6	Petition of Hydrosol, Inc. for an Adjusted Standard from 35 Ill.  Adm. Code 218 Subpart DD - Joint Status Report in Response to December 7, 1995 Board Order and Request for Extension of Stay (3/6)	(JTM)
AS 95-1	Petition of Tommy House Tire Company, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 848.202(b)(2) and (b)(5)	(McF)

## **DECISIONS**

94-243)	ESG Watts, Inc. v. IEPA (due)	(GTG)
94-306)		
94-307)		
94-308)		
94-309)		
95-133)		
95-134)		
95-112	John C. Justice, d/b/a Microcosm v. IEPA (due)	(CAM)
96-91	SPILL, Madison County Conservation Alliance, Sierra Club, Nameoki Township Clerk Helen Hawkins, Kathy Andria, Shirley Crain, Glenda Fulkerson, John Gall, Thelma Orr, Ron Shaw and Pearl Stogsdill v. City of Madison and Metro-East, LLC (due)	(McF)
96-161	City of Geneva v. IEPA (due 5/16)	(RCF)
ADMINIST	RATIVE CITATIONS	
AC 96-37	IEPA v. Midwest Excavating, Inc Accept for Hearing - No Order	
AC 96-40	IEPA v. City of Mound City, Rosetta Boykin, and Walter Boykin Agency Motion to Voluntarily Withdraw Administrative Citation (3/18)	

# **MOTIONS**

92-99	A.B. Dick Company v. IEPA - Petitioner's Motion for Summary Judgment and Memorandum in Support of Motion for Summary Judgment (12/26), Petitioner's Emergency Motion to Defer Consideration of Pending Motion for Summary Judgment (1/17)	(CAM)
94-146	Dorothy L. Hoffman v. City of Columbia - Complainant's Motion for Extension of Time (3/18)	(JY)
95-64	People of the State of Illinois v. Donald Pointer, Mitchell Holder, and Whiteway Sanitation, Inc Respondents' Motion to Transfer First Amended Complaint to the Circuit Court of Jersey County (3/1)	(CAM)
95-122	Olive Streit & Lisa Streit v. Oberweis Dairy, Inc., Richard J. Fetzer and Johnnie W. Ward, d/b/a Serve-N-Save, and Richard J. Fetzer, individually, Amoco Oil Company, and Mobil Oil Corporation - Respondent Oberweis Dairy, Inc.'s Motion for Reconsideration and Miscellaneous Relief and Memorandum of Law in Support Thereof (2/27), Respondent Amoco Oil Company's Response to Respondent Oberweis' Motion for Reconsideration and Miscellaneous Relief (3/5)	(CAM)
95-175	People of the State of Illinois v. Polymer Color, Inc Agreed Motion to Request Relief from Hearing Requirement (3/15)	(JTM)
95-182	Carl and Edna Ball, d/b/a C & E Recycling and Resource Recovery v. IEPA - Petitioners' Motion to Voluntarily Dismiss Permit Appeal (3/15)	(GTG)
96-32	People of the State of Illinois v. Harper-Wyman Company - Agreed Motion for Reconsideration and Modification of March 7, 1996 Board Order (3/15)	(ED)

# MOTIONS (Cont'd)

96-52	Raleigh Realty Corporation v. IEPA - Petitioner's Motion for Leave to File a Motion in Excess of 15 Pages in Length, Motion for Summary Judgment, and Motion to File a Reply Brief in the Event the Agency Files a Response to Petitioner's Motion for Summary Judgment (3/11)	(JTM)
96-76	People of the State of Illinois v. Chemetco, Inc Respondent's Motion to Dismiss (10/20), Complainant's Response to Respondent's Motion to Dismiss (10/27), Respondent's Request for an Extension of Time to File an Answer if the Motion to Dismiss is Denied (11/7), Respondent's Request for Oral Argument (11/7), Respondent's Reply Memorandum in Support of Respondent's Motion to Dismiss (11/15), Complainant's Motion to Strike Respondent's Reply Memorandum (11/21), Respondent 's Memorandum of Law in Support of Respondent's Motion to Dismiss (12/29), Complainant's Response to Respondent's Reply to Complainant's Response to Respondent's Memorandum of law (1/17), Respondent's Reply to Complainant's Response to Respondent's Memorandum of law (1/24), Complainant's Motion to Strike Respondent's Reply to Complainant's Response to Respondent's Memorandum of Law (1/31)	(CAM)
96-85	The County of Kane, Illinois and Waste Management of Illinois, Inc. v. IEPA - Petitioners' Motion to Reconsider or Clarify February 1, 1996 Opinion and Order (3/6)	(CAM)
96-86	BFI Modern Landfill #1 & #2 v. IEPA - Agency Motion to Supplement the Administrative Record and Supplement to the Administrative Record (3/8)	(McF)
96-99	THF Belleville Development, L.P. v. IEPA - Agency Motion to Postpone Filing an Answer and Record (3/14)	(JY)

# MOTIONS (Cont'd)

96-143	People of the State of Illinois v. Michel Grain Company, Inc., d/b/a Michel Fertilizer, and Caryle Michel - Respondents' Motion for Leave to File Instanter Motion to Dismiss Complainant's Complaint and Memorandum in Support of Motion to Dismiss (2/6), Complainant's Objection to Respondents' Motion for Leave to File Instanter Motion to Dismiss Complaint and Memorandum in Support of Motion to Dismiss (2/15), Respondents' Reply to Complainant's Objection to Respondents' Motion for Leave to File Instanter Motion to Dismiss Complaint and Respondents' Motion for Leave to File reply to complainant's Objection to Respondents' Motion for Leave to File Instanter Motion to Dismiss Complaint (2/27), Complainant's Motion to Strike Respondents' Motion for Leave to File Reply (3/7)	(CAM)
	to File Reply (3/7)	

# CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS

96-174	The Knapheide Manufacturing Company v. IEPA - Petitioner's Amended Petition for Extension of Prior Variance (3/6)	(JTM)
96-179	Gilbert & Lenda Marshall v. Danny Ligenfelter, individually and as President of Central Illinois Dirt Riders Association - Hold for Duplicitous/Frivolous Determination	(ED)
96-180	Environmental Site Developers, Inc. v. White & Brewer Trucking, Inc Duplicitous/Frivolous Determination	(McF)
96-185	Douglas and Barbara Oltman v. Terry and Kelly Cowan - Duplicitous/Frivolous Determination	(GTG)
96-186	Mr. & Mrs. Don Williams, Mr. & Mrs. Thomas Morris, and Mr. & Mrs. Peter Bizios v. Schaumburg Park District - Hold for Duplicitous/Frivolous Determination	(ED)

# CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS (Cont'd)

96-191	White Cap, Inc. v. IEPA - (See Petitioner's Motion to Incorporate Documents by Reference filed 3/6) - Accept for Hearing Order	(JTM)
96-192	<u>Laidlaw Waste Systems v. IEPA</u> - Joint 90-Day Extension Request (3/12)	(CAM)
96-193	W.R. Grace & Company - Connecticut v. IEPA - Accept for Hearing Order	
96-194	The D.B. Hess Company, Inc. v. IEPA - Accept for Hearing Order	
96-195	City of Prospect Heights v. IEPA	
96-196	Wisconsin Steel Works v. IEPA - Provisional Variance	(CAM)
96-197	Maggio Truck Center, Inc. v. IEPA - Joint 90-Day Extension Request (3/18)	(CAM)
96-198	Land and Lakes Company v. IEPA - Accept for Hearing Order	

## **ADJOURNMENT**

# LIST OF NEW CASES FILED SINCE MARCH 7, 1996 BOARD MEETING

AC 96-40	IEPA v. City of Mound City
96-191	White Cap, Inc. v. IEPA
96-192	Laidlaw Waste Systems v. IEPA
96-193	W.R. Grace & Company - Connecticut v. IEPA
96-194	The D.B. Hess Company, Inc. v. IEPA
96-195	City of Prospect Heights v. IEPA
96-196	Wisconsin Steel Works v. IEPA
96-197	Maggio Truck Center, Inc. v. IEPA
96-198	Land and Lakes Company v. IEPA

## **REGULAR BOARD MEETING SCHEDULE FOR THE REMAINDER OF FY 96**

April 4 April 18

May 2

May 16

June 6

June 20

NOTE: All Board Meetings will be held in Conference Room 9-040 unless otherwise noted

## REGULAR BOARD MEETING SCHEDULE FOR THE FIRST HALF OF FY97

July 18

August 1

August 15

September 5

September 19

October 3

October 17

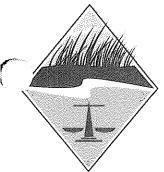
November 7

November 21

December 5

December 19

NOTE: All Board Meeting will be held in Conference Room 9-040 unless otherwise noted



# Illinois Pollution Control Board

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#### GOVERNOR Honorable Jim Edgar

## NOTICE OF CHANGE IN BOARD MEETING STARTING TIME

CHAIRMAN Claire A. Manning Springfield

MEMBERS Emmett E. Dunham II Fimburst

Ronald C. Flemal DeKalb

G. Tanner Girard Grafton

Marili McFawn Inverness

J. Theodore Meyer Chicago

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148 North Third Street P.O. Box 505 DeKalb, Illinois 60115 815-753-1904 Fax 815-753-1970 The Illinois Pollution Control Board Meeting scheduled for Thursday, March 21, 1996, will begin at 12:00 noon instead of 10:30 a.m. The meeting will be held in Conference Room 9-040 in the James R. Thompson Center, 100 W. Randolph Street, Chicago, Illinois.

Claire A. Manning

Posted and Circulated March 19, 1996

