

ILLINOIS POLLUTION CONTROL BOARD  
November 29, 1988

CITY OF SPRINGFIELD, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 88-113  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

CONCURRING OPINION (by J.D. Dumelle and M.L. Nardulli):

While we fully agree with the granting of the variance we are concerned about two matters.

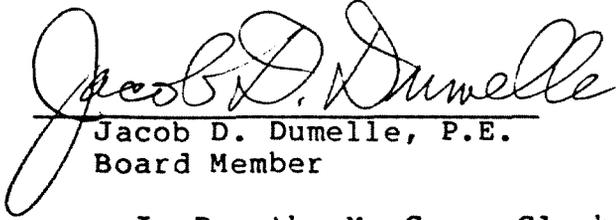
The first matter is Condition (b) of the Order. That condition requires the two temporary dams to be removed "when the normal levels on Lake Springfield are obtained." It is quite possible that if the dams are installed in early 1989 and a wet spring occurs that normal levels in Lake Springfield might be reached by late 1989 or in mid-1990.

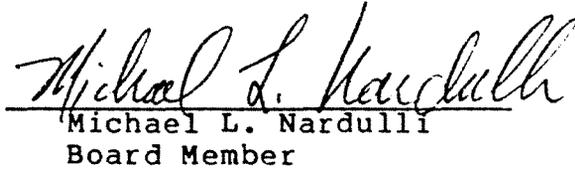
By Condition (b) the two dams would then have to be removed. A drought subsequent to removal, say in 1991, would bring back the instant situation of low water levels. The dams would have to be re-installed and some \$2,000,000 or more of taxpayers' money would then be wasted (removal costs plus re-installation costs).

We feel that Condition (b) should have been deleted leaving only Condition (h), which recites the statutory 5-year limit, as determinative. On October 19, 1988 Mr. Daniel J. Goodwin, P.E., consulting environmental engineer and former IEPA division manager, made this same point on behalf of the Greater Springfield Chamber of Commerce (R. 431-2).

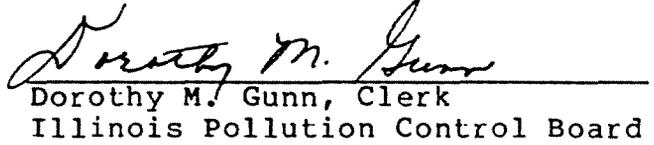
The second matter is the sweeping precedent of this proceeding. The Board here has stated that dams, if the cause of low dissolved oxygen, require variances. Illinois has many dams on its rivers, including those along the Illinois and Mississippi Rivers. Are the owners of all of those dams now required by this precedent to obtain variances if their dissolved oxygen levels are low? Or should the Board seek a statutory exemption for all existing structures?

Because of these concerns we concur.

  
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Jacob D. Dumelle, P.E.  
Board Member

  
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Michael L. Nardulli  
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was submitted on the 1st day of December, 1988.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board