

ILLINOIS POLLUTION CONTROL BOARD  
February 20, 1985

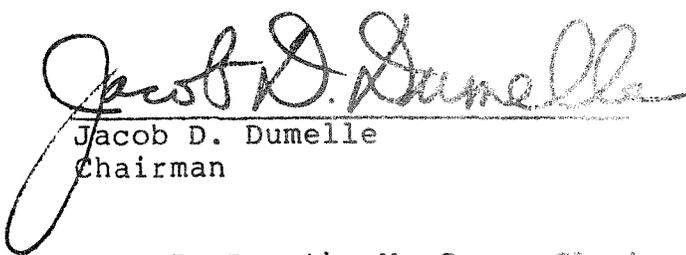
CITY OF FARMINGTON, )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) PCB 84-166  
 )  
 )  
 ) ILLINOIS ENVIRONMENTAL )  
 ) PROTECTION AGENCY, )  
 )  
 ) Respondent. )

CONCURRING OPINION (by J. D. Dumelle and J. Theodore Meyer):

The majority has chosen to not honor the City of Farmington's request for a retroactive variance for the period from July 1, 1984, to November 1, 1984. This tiny community in Fulton County with a population of 3,118 is to be left liable for prosecution by anyone for the existence of two sewer system bypasses.

This Board in a prior action authorized the two bypasses to be installed. Dry weather occurred and evidently no overflows have resulted. What then was the environmental harm? It is nil, of course, and the variance should have been granted back to July 1, 1984.

Farmington's "sin," it appears, was that it did not file early enough for the variance nor did it give a reason for its delay. But tiny communities such as Farmington have few fulltime personnel to attend to such complex (to them) matters. Since no environmental harm was done and since Farmington was in fact following the Board's prior conditions, the variance for the period back to July 1, 1984, should have been granted.

  
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Jacob D. Dumelle  
Chairman

  
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J. Theodore Meyer  
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was submitted on the 28th day of February, 1985.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board