## ILLINOIS POLLUTION CONTROL BOARD April 26, 1990

THE	ENSIGN-BICKFORD	COMPANY,	)
	:	Petitioner,	)
		ν.	) ) )
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,		TAL	) )))
		Respondent.	) }

PCB 90-83 (Provisional Variance)

Respondent. )

DISSENTING OPINION (by J. Dumelle):

My reason for dissenting is that I feel the provisional variance portion of the Environmental Protection Act ("Act") was not intended for situations such as this one.

The Ensign-Bickford Company ("Petitioner") certainly knew a long time ago that it would be burning these two buildings. It would have had to know this for intelligent corporate planning and for its preparations to build two buildings.

The provisional variance provision was designed for "unanticipated" problems that arise and must be handled quickly. But its use necessarily omits public scrutiny and oversight which are hallmarks of the Act.

In this case the petitioner could have timely applied for an air variance and the public would have been afforded an opportunity to comment or torask for a hearing.

Sec. 11 1: 311- 22.13 Jacob D. Dumelle, P.E. Board Member

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was submitted on the 254 day of Clarket, 1990.

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Dorothy M. Gunn, Clerk Illinois Pollution Control Board