

ILLINOIS POLLUTION CONTROL BOARD  
May 9, 1986

MOBIL CHEMICAL COMPANY, )  
 )  
Petitioner, )  
 )  
v. ) PCB 83-166  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

CONCURRING OPINION (by J. D. Dumelle):

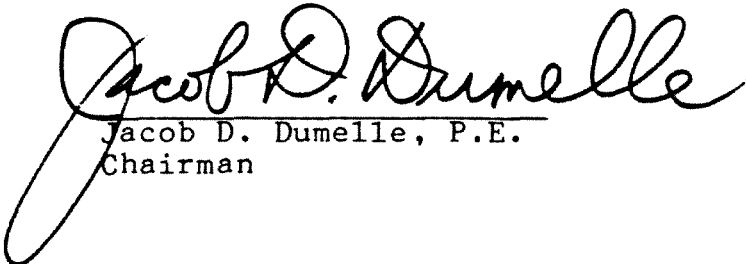
My reason for concurring in this matter is that the procedure followed by the majority did not allow for public participation.

On May 24, 1985 Mobil filed its Motion for Relief of Final Order from the Board's Order of August 22, 1984 some 9 months earlier. Today, a year later, the majority has decided this matter.

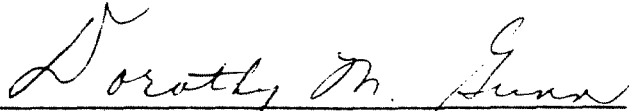
The Motion of May 24, 1985 should have been docketed as a Variance from a Board Order. The Board's Environmental Register and the mandatory legal notice for variances published by IEPA would have notified the public of the existence of this request to significantly loosen a previously adopted Board Order.

A second point of concern in this proceeding is the precedent created. Other dischargers will now be encouraged to receive a variance order from the Board, monitor their own subsequent performance and then use this "back door" method to loosen the limits, all free from public scrutiny. And even were the public somehow to find out about the pending motion it could arguably not comment since it would not have been an intervenor in the original proceeding. Comments from non-parties are not allowed on motions.

Even though the monthly average limits for ammonia and for sulfates are being almost doubled, I agree with those new limits from the technical sense. My main objection is this procedure which excludes public oversight - a keystone of the Environmental Protection Act.

  
Jacob D. Dumelle, P.E.  
Chairman

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was filed on the 12<sup>th</sup> day of May 1986.



Dorothy M. Gunn  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board