

ILLINOIS POLLUTION CONTROL BOARD
December 17, 1981

STEPHEN DRAKE, et al.,

Petitioners,

v.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
and CITY OF PONTIAC,

Respondents.

PCB 81-54

ORDER OF THE BOARD (by J. Anderson):

On November 19, 1981 petitioners filed a motion for reconsideration of the Board's October 29, 1981 Opinion and Order denying variance. On December 1, 1981 the Board received a 30 page handwritten letter from Stephen Drake. As the letter contained no indicia of service upon either Drake's attorneys or the other parties, on the same day the Board itself made appropriate service to cure any potential ex parte contact problems the letter might be viewed as raising. Pursuant to leave granted December 3, 1981, the Agency filed its response to the motion and the Drake letter on December 15, 1981.

The motion for reconsideration is granted. After careful review of the arguments presented by the motion and response, the Board reaffirms its earlier Opinion and Order. As the Board believes its original Opinion clearly details its factual findings and legal conclusions concerning the weight given to various evidence, the interplay of Rule 951(b)(2) of Chapter 3 and the Starchevich decision, and the nature of the environmental and economic hardships, these issues need not be further addressed.

The Board must however remark that, as the Agency points out, the Drake letter contains unsworn assertions concerning "the original and actual facts" of the case, which Drake believes had become "twisted and distorted" in the record before the Board. Much of the letter reiterates evidence already before the Board. The additional unverified "facts" and challenges to the credibility of certain evidence should have been presented at hearing when Drake and all witnesses were available for cross-examination, and may not now be considered by the Board.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 17th day of December, 1981 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board