

ILLINOIS POLLUTION CONTROL BOARD
June 30, 1983

TEXACO, U.S.A.)
)
) Petitioner,)
)
) v.) PCB 83-80
)
) ILLINOIS ENVIRONMENTAL)
) PROTECTION AGENCY,)
)
) Respondent.)

CONCURRING OPINION (by J.D. Dumelle):

The pleadings in this case do not seem to support the need for a provisional variance rather than the usual variance subject to public scrutiny, comment and possible public hearing.

The theory for a provisional variance is that unexpected and unanticipated events occur which necessitate immediate protection from enforcement through this mechanism. The Agency Recommendation characterizes the Texaco request as one "to allow the discharge of wastewater should it become necessary during maintenance dredging of its...settling basins...(underlining added).


The key word is "maintenance". Settling basins can be sounded to determine the level of solids. Dredging schedules can be anticipated well in advance of the loss of capacity. Thus ample time existed for the Board's consideration of a variance by the usual method.

Since I feel that this proceeding does not meet the test for a provisional variance, I concur.



Jacob D. Dumelle, P.E.
Chairman

The above Concurring Opinion was filed on the 30 day
of July, 1983.



Christan L. Moffett, Clerk
Illinois Pollution Control Board