

ILLINOIS POLLUTION CONTROL BOARD
July 10, 1980

CITY OF ROLLING MEADOWS,)
)
 Petitioner,)
)
 v.) PCB 80-70
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

CONCURRING OPINION (by J.D. Dumelle):

While I agree that the variance, if needed, should be granted, I am not sure of the need for it.

The Petitioner's data are from an uncertified laboratory and thus cannot be relied upon. The IEPA itself presents only a single sample analyzed at a certified laboratory taken May 4, 1979.

The Petition was filed April 9, 1980 with the Board. Thus, more than eleven months have elapsed in which additional samples might have been taken and analyzed after that first sampling.

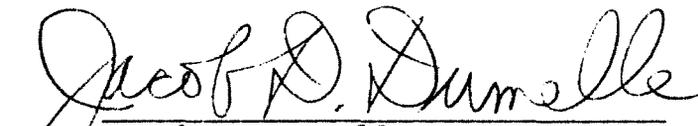
Furthermore, Rule 309(C)1(a) requires quarterly samples. The legal question thus remains whether a violation of the Rule can be shown without following the sampling frequency mandated by the Rule itself.

The radium standard was adopted by the Board in R77-13 on August 24, 1978. It would seem that by now ample radium data gathered on the required quarterly basis should be available.

Since I am not sure of the proven need for the variance I concur in its grant.

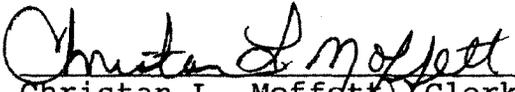
The Petition refers to fiscal losses to a developer of "\$100,000 per month" caused by the IEPA's moratorium action of June 21, 1979. The Petition in this case was only filed on April 9, 1980 which was more than 9 months later. No reason was given for this filing delay by the Petitioner.

Respectfully submitted,



Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was filed on the 14th day of July, 1980.


Christan L. Moffett, Clerk
Illinois Pollution Control Board