

ILLINOIS POLLUTION CONTROL BOARD  
May 12, 1977

IN THE MATTER OF: )  
 )  
PROPOSED AMENDMENTS TO ) R 77-4  
CHAPTER 8: NOISE POLLUTION )

DISSENTING OPINION (by Mr. Zeitlin):

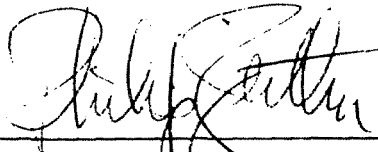
I cannot agree with the Board's action today denying Motions by the Air Transport Association of America (ATA) (May 4, 1977) and the Chicago Association of Commerce and Industry (May 9, 1977) to postpone or defer the hearings scheduled in this matter. As noted by both parties, any hearings to be held by the Board will largely duplicate a record compiled by the Federal Aviation Administration (FAA) in very recent hearings. Any regulatory decision of the Board in the face of pending federal action may raise serious problems of inconsistency, primary jurisdiction, unnecessary dual regulation (with the attendant duplication of reporting and other paperwork), and significant uncertainty in economic and business planning.

As the ATA Motion points out, the Attorney General's Proposal very closely parallels proposals brought before the FAA by the United States Environmental Protection Agency, and any record on the proposal before us must -- of necessity -- duplicate an existing record; although the proposal before us is more limited in terms of fewer potential regulatees than that before the FAA, we will be hearing from many of the same parties who testified there on the same limitations and options. This seems to me to be unnecessarily wasteful of the Board's limited regulatory resources, and needlessly onerous for any interested parties.

In addition, the pendency of two very similar proposals before different governmental bodies must be quite confusing to the public and those to be regulated. Can we expect the full participation and cooperation which we need? In addition to the legal questions of preemption, etc., it should be clear to the Board that a bureaucracy may be unnecessarily created by dual state/federal regulation. Our experience in Illinois with NPDES should, by itself, be sufficient to convince the Board that such a result is to be avoided whenever possible.

We may, and should, assume that the FAA will properly perform its legal duties in a complete and timely fashion. Absent proof to the contrary, we should defer consideration of this matter.

I respectfully dissent.

  
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PHILIP ZEITLIN  
Board Member

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 13<sup>th</sup> day of May, 1977.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board