

ILLINOIS POLLUTION CONTROL BOARD  
November 20, 1980

G.R.R. INVESTMENT CO., and TIMBERLAKE MOBILE )  
HOME SUBDIVISION HOMEOWNERS ASSOCIATION, )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) PCB 80-130  
 )  
 ) ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 ) Respondent. )

DISSENTING OPINION (by J.D. Dumelle):

My reasons for dissenting in this matter are as follows.

1. The record is deficient on the uses by the public of the receiving stream.
2. The record is deficient as to the travel distance necessary to render pathogens safe.
3. The decision is a pre-judgment of a pending regulation.

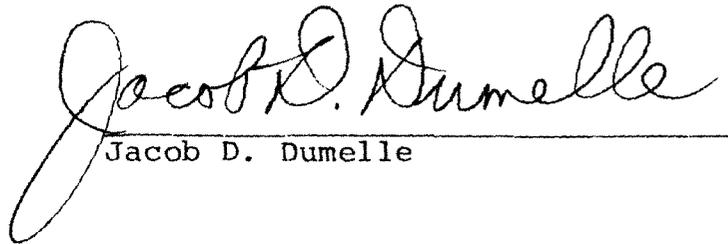
No mention is made in the pleadings of public uses, if any, of the receiving stream. Are swimming, wading, canoeing or fishing activities carried on in the 25 or more miles of streams between this discharge and Evansville, Indiana? The reason for adoption of a fecal coliform effluent standard was to protect the public from associated pathogens.

The Agency merely quotes from R77-12, Docket D, its proposal for a 20 mile distance between untreated sewage effluents and a public water supply, etc. No technical or scientific support is in the record to verify this distance. The hearings from R77-12, Docket D, have not been made a part of this record.

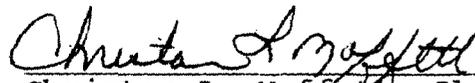
Lastly, to decide a variance solely because of a pending regulation (in the absence of the above listed information) is a pre-judgment of that regulatory proposal. It also serves to encourage variance petitioners to file rulemaking initiatives before the Board in order to bootstrap their way to a favorable variance decision.

I would have dismissed the instant petition as wholly inadequate. And I would point out that chlorination has been required at this site since July 1, 1972.

The Board is referred to a somewhat similar variance case, which it denied without prejudice (Metropolitan Sanitary District of Greater Chicago v. EPA, PCB 76-54, September 30, 1976, 23 PCB 623).

  
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Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 12<sup>th</sup> day of December, 1980.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board