

ILLINOIS POLLUTION CONTROL BOARD
October 30, 1980

UNITY VENTURES)
)
 Petitioner,)
)
 v.) PCB 80-175
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

DISSENTING OPINION (by J.D. Dumelle and N.E. Werner):

Our reasons for dissenting in the dismissal of this case are;

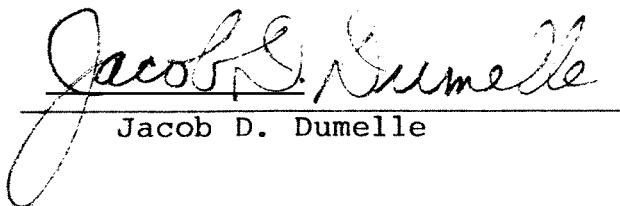
1. The dismissal is premature.
2. The dismissal may in fact harm the environment.
3. The dismissal advances an incorrect view of restricted status (sewer ban) cases.

Dismissal is premature because a hearing was not held as requested on the petition. A hearing might have given the Board a better understanding of the Petitioner's intention to construct the sewer in question.

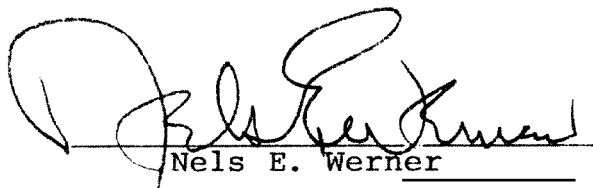
If the Petitioner does in fact build the sewer (which can be done until January 31, 1981) then a subdivision development probably must follow in order to generate the revenues necessary to amortize the sewer. The new house revenues connections will then add more waste to the overloaded sewage treatment plant and thus further harm the environment. In contrast, a grant of the variance would allow 3-5 years more time and the planned sewage treatment plant expansion would then be much closer to completion if not in fact completed.

The Board majority seems to agree that denial of the petition merely puts the Petitioner on a par with all other new requests for permits. That itself is a hardship. The Petitioner today can go forward with its development. After January 31, 1981 it may or may not, depending on who else applies for permits and how the Board views other petitions against the instant one. It will have lost its freedom of action.

In summary, as a minimum the Board should have allowed a hearing on the Petition. On the merits, a grant of the Petition would have protected the environment and not serve to cause the harm which may now occur.

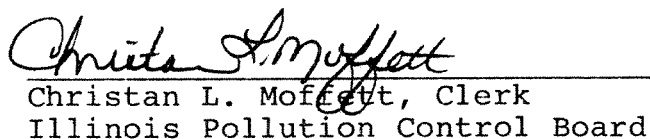


Jacob D. Dumelle



Nels E. Werner

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 10th day of November, 1980.



Christan L. Moffett, Clerk
Illinois Pollution Control Board