

ILLINOIS POLLUTION CONTROL BOARD
February 14, 1973

In the Matter of:)
) R72-9
AGRICULTURAL RELATED POLLUTION)

INTERIM OPINION AND ORDER OF THE BOARD (by Mr. Henss):

On June 23, 1972, in Board Newsletter #49, we announced that public hearings would be held on a Proposed Animal Waste Regulation designed to avoid odor nuisances and to reduce pollution of "waters of the State". Under the Proposal this was to be accomplished by prohibiting livestock operations in certain areas and by requiring livestock operators to obtain a permit prior to construction and operation of some livestock facilities. Issuance of permits was in part to be based upon the quantity of livestock as related to size of feed lot, proximity of feed lots to surface water, and distance of feed lot from sub-divisions.

This initial proposal was considered by many to be a focal point for discussion of the issues related to animal waste disposal. The hearings were scheduled during the winter months to permit the greatest possible participation by farm people. An estimated 4,000 persons attended six public hearings in Rockford, Galesburg, Urbana, Moline, Jacksonville and Carbondale, Illinois. We received much valuable testimony and correspondence from numerous agricultural and livestock experts, livestock feeders, bankers, government research scientists, representatives of other States and the Federal Environmental Protection Agency.

Many farm witnesses said the Proposed Regulation was unreasonable, unworkable and unnecessary. There was not a lot of evidence introduced in the first six hearings that animal waste has been polluting Illinois waters. However, an expert witness from the Illinois State Water Survey did testify that nitrate pollution of surface and underground waters in Illinois is widespread. He said the source of the nitrates is animal waste, human waste and nitrogen fertilizer. The Illinois Environmental Protection Agency has not yet introduced all of its testimony and desires additional hearings for this purpose.

In addition to questioning the basic need for the Regulation the farm witnesses also said:

- (1) The Regulation should be more specific in defining the "waters of the State" to be protected.
- (2) The Regulation favors "distance" over "performance". Why should animal feed lots be so restricted in their proximity to shoreline, town or residence if they are efficiently operated and are not causing pollution and odor problems?
- (3) Dairies and milk handling areas are already regulated. Another Regulation is not needed for those particular farm operations.
- (4) Farmers would rather "register" their businesses than be "granted a permit" to operate them.
- (5) The information requested on the application for permit is too extensive and too costly for many farmers.
- (6) An operating permit which is good for only 5 years creates problems in raising the capital to build the facilities needed under the Regulation.
- (7) The Regulation affects too many medium sized feed lot operations. Can the EPA really administer a permit program involving 42,000 feed lots?
- (8) Some witnesses argued that farm pollution problems can be handled under existing Regulations and the statutory provisions regulating nuisance.

Although hearings have not been concluded, we have received sufficient information to determine that the Regulation should not be adopted in its present form. Some features, of course, may be retained in any future proposal. A new proposal will be prepared and will be published prior to the scheduling of additional public hearings. In the preparation of this new version it will be most helpful -- perhaps essential -- to know what Federal requirements shall be imposed upon the States under the Federal Water Pollution Control Act Amendments of 1972. The Federal EPA has not yet promulgated a set of final guidelines and regulations governing animal feed lots.

The Illinois EPA has requested that we hold these hearings in abeyance for a period of six to twelve months to allow the Agency an opportunity to propose amendments which are compatible with the Federal Regulations yet to be adopted.

We grant the EPA Motion and will not hold further hearings for at least six months. However, we retain jurisdiction of this matter and all testimony to date shall be included as part of the record upon the resumption of hearings.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Opinion and Order was adopted this 14th day of February, 1973, by a vote of 3 to 0.

Christan L. Moffett

