

ILLINOIS POLLUTION CONTROL BOARD
NOVEMBER 23, 1971

FARMERS OPPOSED TO EXTENSION)
OF THE ILLINOIS TOLLWAY et al.)
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)
 v.) # 71-327
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 ILLINOIS STATE TOLL HIGHWAY AUTHORITY)
et al.)

Opinion and Order on Amended Complaint (by Mr. Currie):

We dismissed the original complaint in this case (# 71-159, September 16, 1971), in a lengthy opinion spelling out in our view what must be pleaded and proved in order to justify a Board order prohibiting or modifying the planned construction of an extension of the Tollway westward beyond Aurora. We gave leave to file an amended complaint, which has been received. We entered an order October 28 requesting a response from the Authority, but none has been received. On studying the complaint we conclude that in certain respects the complainants have now stated sufficient specific facts to entitle them to a hearing on the merits.

We begin by noting that we do not find persuasive the allegations that the proposed road will generate new automobile traffic, as any new road will, or that it will pollute more than others because it will be wider and support higher speeds than some other roads. We are not going to forbid the construction of all modern highways. We do, however, believe a hearing should be held limited to the following allegations, proof of which could perhaps, in the absence of an adequate defense, require modification of the construction plans: 1) That the use of several toll barriers creates a special and unnecessary air pollution problem; 2) that hazardous concentrations (numerically specified in the complaint) may be exceeded for several air contaminants; including lead; 3) that specified contaminants will cause violations of the water quality standards; and 4) that a permit is required for the construction of highway drains and the like discharging to the waters. This is a legal question on which we reserve judgment pending argument at the hearing.

We do not wish by authorizing a hearing to encourage unreasonable hopes that the complainants will prevail on the merits. All we are saying today is that, if they believe their case is strong enough to justify the time and expense of a hearing, they are entitled to try. We repeat, as we said in our earlier dismissal opinion, that we are not going to order an end to the building of new highways in Illinois.

I, Christan Moffett, Acting Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion and Order on Amended Complaint this 23 of November, 1971.

Christan J. Moffett