

ILLINOIS POLLUTION CONTROL BOARD

September 2, 1976

CATERPILLAR TRACTOR COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 76-131
)	
ENVIRONMENTAL PROTECTION AGENCY)	
)	
Respondent.)	

DISSENTING OPINION (by Mr. Dumelle):

The Petitioner has asked for variance from Rule 103(b)(6) of Chapter 2, Air Pollution Control Rules and Regulations. It asserts that an arbitrary and unreasonable hardship will result if it must "go through the expense and delay of a detailed modelling and monitoring study".

The six plants which are the subject of the variance are in three recognizably separate airsheds. The Mossville, East Peoria and Morton plants are in the Peoria airshed. The Aurora and Joliet plants are in the Chicago airshed. The third airshed is the Decatur one.

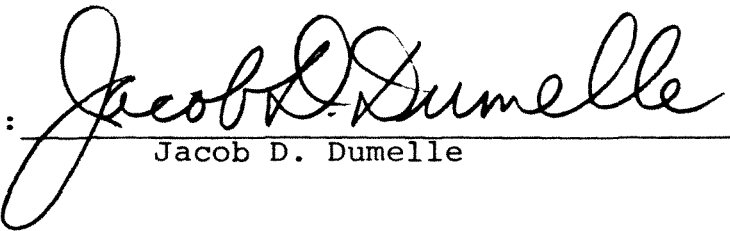
Depending upon the extent of monitoring and modelling required by the Agency it is possible that considerable expense and lengthy delays could in fact result before the operating permits could be issued. If, for example, two full years of air quality and meteorological data are required by the Agency and if these data must be gathered anew by Caterpillar, then an expenditure of perhaps a million dollars or more is involved.

On the other hand, if existing air quality data from State and local networks are permitted by the Agency to be used by Caterpillar, then the cost could be far lower.

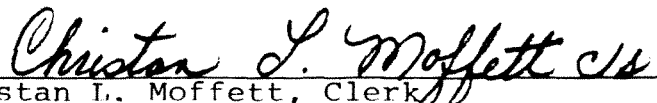
On the basis of what is before us we simply do not know the extent of the Agency's requirement upon Caterpillar. I would not have dismissed the case but would have set it for hearing to allow the Petitioner to meet its statutory burden of proving an arbitrary and unreasonable hardship.

The compliance plan requirement for this variance would come after the threshold determination under Rule 103(b)(6) that air quality standards are endangered.

We have granted variances from the requirement to obtain a landfill permit because of expense. Yet the borings required in a landfill permit application are essential in determining whether a hazard to ground water quality will be created by the permit issuance. Modelling and/or monitoring are needed to determine the hazard (if any) to air quality. What is at issue is whether those requirements, as set by the Agency, constitute an arbitrary and unreasonable hardship.

Submitted by: 
Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 2nd day of September.


Christan L. Moffett, Clerk
Illinois Pollution Control Board