

ILLINOIS POLLUTION CONTROL BOARD
March 14, 1972

IN THE MATTER OF)
PROPOSED REGULATION BANNING PHOSPHATES) R71-10
IN DETERGENTS AND OTHER CLEANING)
PRODUCTS)
)

Supplemental Statement by Jacob D. Dumelle

Mr. Lawton's excellent opinion of the Board summarizes the testimony and the reasons for the decision not to ban phosphorus in detergents at this time. I should like to capsule my thoughts in this matter and perhaps stress additional points.

In my own analysis of environmental matters I follow a three-question format. These are:

(1) Is there a problem?

The problem may be present or future. It may be latent (asbestos causing mesothelioma 30 years after exposure is an example) or immediate.

(2) Is there a solution to the problem?

If there is no solution to an environmental problem then all a Board can do is to encourage research toward a solution.

(3) Can the solution be afforded?

A solution toward meeting air quality standards for auto-generated gases in Chicago's Loop is to ban auto traffic. What are these costs and is the problem severe enough to warrant this type of instant action?

Let us examine the phosphorus situation from this 3-question format:

1. Is phosphorus in water a problem Illinois? Based upon an incomplete record on this topic we would have to say "No." Algae do not bloom at all on the Illinois River even with large amounts of phosphorus present. And the four months of plankton data (October 1971 - January 1972) supplied to us late in these proceedings on March 2 and March 16, 1972 by the Illinois State Water Survey show counts at 42 locations which are well below the 20,000 diatoms per ml. visible bloom level.

However, we must add that it is in the hot summer when most algae blooms occur, if they occur at all. And the State Water Survey plankton data supplied do not cover the summer period. The Fox River noted for its "pea-green" appearance in the summer, has October 1971 - January 1972 plankton counts that are less than other Illinois streams sampled in the same months. So the data are not complete and we simply do not know, except for the Illinois River, of the presence or absence of nuisance algae levels at any time of the year. By September 1972 we should have a summer's data from the State Water Survey and should know better the extent of the problem, if any.

2. Is there a solution to the problem? Mr. Lawton's opinion discusses the alternatives to phosphorus removal at sewage plants versus banning of phosphorus-containing detergents. But if there is no problem how can this Board ban a product used in interstate commerce such as phosphorus-based detergents, and expect such a ban to survive the inevitable appeal to the court system? The answer to my first question determines if we have to consider the second. The Chicago phosphorus regulation, in the absence of an algae problem on the Illinois River, and of course with no discharge to Lake Michigan of Chicago effluents, then becomes a secondary means of inducing the detergent industry to change its formulation. If the industry changed its formulation to low or no-phosphorus, then less phosphorus would go to Lake Michigan in the interim period before December 1972 when 80% phosphorus removal is achieved by each state discharging to the Lake. But I question whether this secondary effect could legally warrant an Illinois ban on phosphorus detergent.

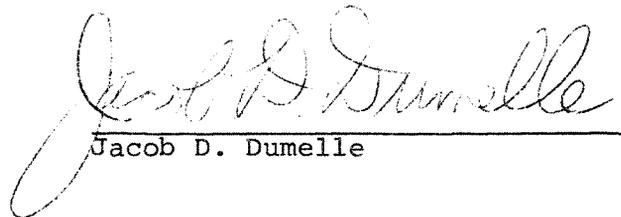
3. Can the solution be afforded? One of the consequences of a ban on phosphorus detergents might be more injury to children from some of the substitutes. This too, is a cost and no one willingly creates a hazard if it can be avoided. Were there strong assurances that dangerous detergent substitutes would be kept off the market then we might feel relieved of this worry. But in an era when we still have coats made with asbestos and inflammable night clothes for children we cannot be sure. See the statement of Dr. Robert Gosselin (R.192) and as quoted on pp.10-13 in Mr. Lawton's opinion.

In closing, the suggestion by Mr. Sol D. Gershon of Lever Bros. that an 8.7% phosphate level be set nationally by legislation is an attractive one. This would eliminate higher phosphorus

blends. The Reuss Committee is said to have recently recommended this level with a lower level of 2.2% at some later date.

I do not agree with the statements attributed to Dr. Paul F. Derr of FMC that phosphorus control is useless in preventing eutrophication of lakes. If he is correct then Lake Michigan is doomed. We all might just as well throw up our hands. In a few weeks the Phosphorus Technical Committee for Lake Michigan will meet and discuss the newest water quality sampling data. And hopefully, the Lake Michigan Enforcement Conference will shortly reconvene and discuss the Committee report and bring us all up to date on the latest data and findings on eutrophication and its prevention.

Lastly I do want to touch upon an implication contained in the last pages of Mr. Lawton's opinion (pp. 18-22) that the proponents of this regulation bear the burden of proof. See p. 21 for example, "The proponent failed to establish that phosphorus poses a pollution problem in any flowing stream in Illinois." This Board is not to be a passive board in regulatory matters waiting for parties to bring it data. It has its own access to resources; principally the Institute for Environmental Quality, the Illinois Environmental Protection Agency and the State Water Survey. In the airport noise regulation proceedings (R 70-13), also citizen-initiated, the Institute established a prestigious multidisciplinary task force which has provided much technical analysis to the Board. The burden of proof for noise regulations was lifted from the citizen group. We cannot expect citizen groups to also finance or somehow obtain volunteer scientists to testify. If the problem, whether known or postulated, is significant, then the Board has a responsibility to obtain the best scientific thinking available.



Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Supplemental Statement was filed on the 22nd day of March, 1972.



Christan L. Moffett, Clerk
Illinois Pollution Control Board

