

ILLINOIS POLLUTION CONTROL BOARD  
February 8, 1971

CITY OF CARLINVILLE )  
 )  
 v. ) #70-47  
 )  
 ENVIRONMENTAL PROTECTION AGENCY )

Opinion and order of the Board (by Mr. Currie):

The City of Carlinville is under the obligation of Rules and Regulations SWB-14 to submit plans for sewage treatment plant improvements by January, 1971 and for chlorination facilities by July, 1971, and to contract for and complete such facilities by specified dates thereafter. It requests a variance from all these requirements. We dismiss the petition, on motion of the Agency, for failure to allege facts sufficient, if proved, to justify the grant of a variance.

Board Rule 308 requires that the petitioner set forth, among other things, "a description of the costs that compliance would impose on the petitioner and others" and "a description of the injury that the grant of the variance would impose on the public." Without these facts the Board obviously cannot balance the costs and benefits of compliance and cannot determine whether, as the statute requires for a variance, compliance would impose an "arbitrary or unreasonable hardship." Environmental Protection Act, section 35.

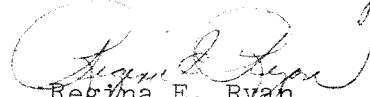
The present petition, like that in City of Jacksonville v. EPA (#70-30, decided January 27, 1971), is fatally deficient in these respects, even as supplemented by an amendment filed in response to the motion to dismiss. The amendment states only that the cost of compliance would be "approximately \$150,000." But the \$150,000 is evidently the cost of the needed improvement, whose propriety the City does not challenge; what is needed is an allegation of the added hardship that will be imposed if the SWB-14 deadlines must be met. The original petition obscurely refers to a dispute between the City and its consultants over terminating their contract and alleges that a desired new contractor will not start work until the dispute is settled. But proof of this dispute would not absolve the City from its obligation to stop polluting. As for the other side of the coin, the amendment alleges only that granting the variance would be harmless because "effluent creek

runs through one mile of pasture land to Macoupin Creek. Areas along both creeks uninhabited." That a creek runs through uninhabited land for a while does not justify polluting it. The regulations are based on the conviction that specified levels of treatment are necessary to assure satisfactory stream conditions for aquatic life and avoidance of nuisances. They are not to be lightly set aside.

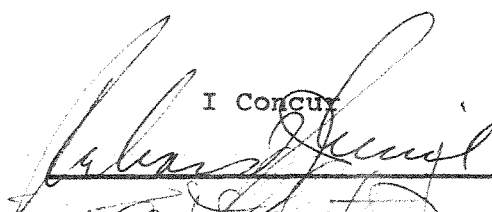
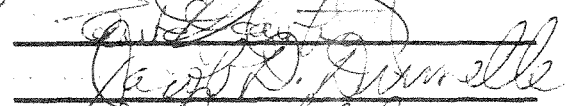
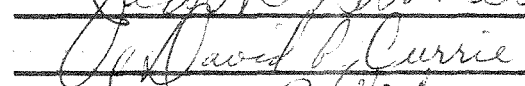
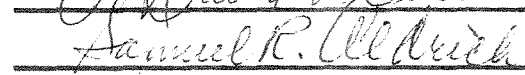
The petition is dismissed without prejudice to the filing of a subsequent petition complying with the Rules of this Board.

This opinion constitutes the Board's findings of fact, conclusions of law, and order.

I, Regina E. Ryan, certify that the Board has approved the above opinion and order of the Board this *8th* day of *February*, 1971.

  
Regina E. Ryan  
Clerk of the Board

I Concur

I Dissent

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