

ILLINOIS POLLUTION CONTROL BOARD
May 24, 1990

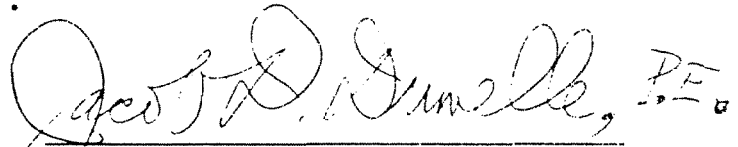
JEFFERSON SMURFIT CORP.,)
)
 Petitioner,)
)
 v.) PCB 90-101
) (Provisional Variance)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

CONCURRING STATEMENT (by J.D. Dumelle):

There are two concerns that have not been addressed here. First, since this matter involves air emissions and the State Implementation Plan it may legally require a public hearing. The Board in air variances which are not provisional variances always requires a hearing. Can the State statute establishing provisional variances pre-empt the Federal requirement under the Clean Air Act for a public hearing or opportunity for hearing?

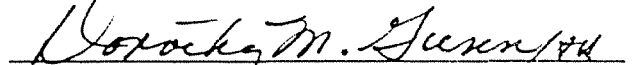
Second, what would happen if a sulfur dioxide violation or violations were detected in the vicinity of this plant during the provisional variance period? Would the Metro East area then be declared non-attainment for sulfur dioxide? After all, the coal sulfur limits on this industry were carefully set to prevent such violations.

For these reasons, I concur.



Jacob D. Dumelle, P.E.
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Concurring Statement was submitted on the 22nd day of August, 1990.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board