

ILLINOIS POLLUTION CONTROL BOARD
August 9, 1990

HYDRAULICS, INC., d/b/a,)
BRAKE PARTS CO.,)
)
Petitioner,)
)
v.) PCB 89-88
) (Permit Appeal)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

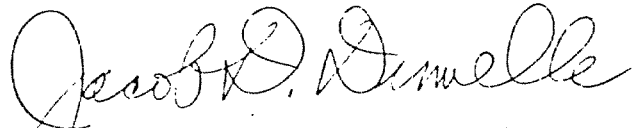
CONCURRING STATEMENT (by J.D. Dumelle):

The IEPA's July 23, 1990 status report lists four submittals of additional information ("plans") by the Petitioner. It seems to me that these materials are no different from filing for a revised permit.

The Board, under long established precedent, does not entertain a permit appeal when a revised permit application has been filed on the same site. That is, the Agency has no jurisdiction to issue any subsequent permits for the same application once the disputed permit has been appealed to the Board. See Caterpillar Tractor Co. v. IEPA, PCB 79-180, July 14, 1983. Of course the Agency and Hydraulics Inc. are still free to settle their dispute and withdraw the permit appeal from the Board's purview.

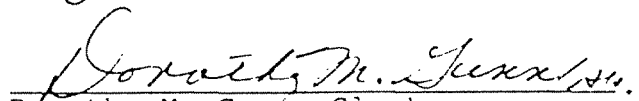
Finally, this case was filed with the Board more than a year ago on May 23, 1989. If it is not brought to a decision quickly it should be dismissed for want of prosecution by the Petitioner.

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 23rd day of August, 1990.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board