

ILLINOIS POLLUTION CONTROL BOARD
October 29, 1992

IN THE MATTER OF:)
)
CLEAN AIR ACT RULEMAKING)
PROCEDURES PURSUANT TO)
SECTION 28.5 OF THE) RES 92-2
ENVIRONMENTAL PROTECTION) (Resolution)
ACT, AS ADDED BY P.A. 87-1213)

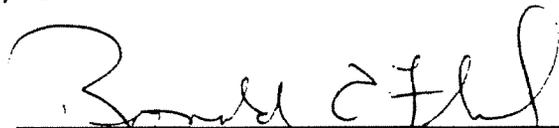
DISSENTING OPINION (by R. C. Flemal):

I respectively dissent from the adoption today of Resolution RES 92-2.

I do support the answers provided for questions numbered 3 through 13. However, I disagree with the answers that the Board provides for questions 1 and 2.

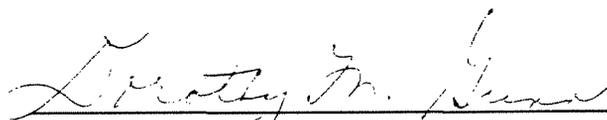
It is proper that the Board consider the question of how it would respond if it should find a proposal as submitted to not comply with Section 28.5(e). However, I do not believe that it is within either the letter or spirit of Section 28.5 for the Board to reserve for itself the authority to refuse acceptance of proposals submitted under Section 28.5.

Section 28.5 contains the legislature's special procedures for handling what it has deemed to be a special problem: the fast-track promulgation of regulations under the Clean Air Act Amendments (CAAA). These special procedures assign a role to the Board that is different from the role normally encountered. Section 28.5 reasserts the Board's role of promulgator of environmental standards in Illinois. But it also limits the freedom of the Board to employ its expertise in tailoring the form and content of the CAAA regulations. I believe that limitation is intended to extend to questions of compliance with Section 28.5(e). Accordingly, I dissent.



Ronald C. Flemal, Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above dissenting opinion was submitted on the 27th day of October, 1992.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

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