

ILLINOIS POLLUTION CONTROL BOARD
February 7, 1980

IN THE MATTER OF:)
PROPOSED AMENDMENT) R76-14,
OF THE NOISE) R76-19
REGULATIONS, RULES 101, 205, 206 AND 209)

Dissenting Statement (by Mr. Dumelle):

My reason for dissenting on the proposed rule amendments issued today for public comment lies in the provisions of the proposed new Rule 206(d).

The proposal would freeze land use classifications in effect as of the effective date of the new rule. The proposal also establishes a 1000 ft. zone within which such a freeze shall take effect.

Consider the following scenario. A person owns vacant land within 1000 ft. of an existing or new impact forging operation. It may have no zoning classification because of lack of local zoning or be in a Class C zone. That person decides to build a residence (Class A) upon his or her land. The new Rule 206(d), as proposed, would give no protection to this property at all to any degree. If the forging industry cannot economically and reasonably control its noise output to levels which can be lived with by nearby residences then it should buy up this close-in property and create its own buffer zone. Space is a great insulator.

The argument of priority of location is often raised. But in the example discussed above ownership may pre-date the date of establishment of the forging operation. And even if it does not, the forging industry obviously did not at any time purchase "noise easement" rights over this adjacent property.

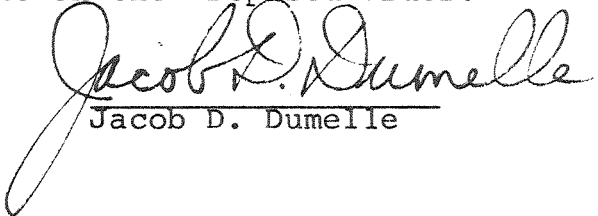
Thus the situation can become one of deprivation of environmental protection to a property owner of the free and full use of his or her land.

Proposed Rule 206(d) sets a precedent which could haunt the Board. Is the Board to create "zones of no protection" against nearby property owners from the odors of rendering plants? Or from other types of noise other than forging such as factory noise? Besides noise and odors, this precedent

could be extended to create "no protection zones" along rivers downstream of major dischargers.

Because the precedent is a disturbing one it ought not to be enacted. The problems it tries to address can be better solved by carefully examined variance proceedings on a case-by-case basis.

I respectfully dissent on the Proposed Order.



Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Dissenting Statement was submitted this 29th day of February, 1980.



Christan L. Moffett, Clerk
Illinois Pollution Control Board