

ILLINOIS POLLUTION CONTROL BOARD
November 8, 1990

DEPARTMENT OF THE ARMY,)
)
 Petitioner,)
)
 v.) PCB 87-38
) (Variance)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

DISSENTING OPINION (by J.D. Dumelle):

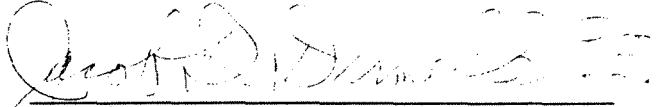
The Board's original Order and Opinion in this case was entered September 17, 1987. Now 3 years and almost 2 months later a request is before us in this "old and cold" case to reopen it and change an internal date.

When are cases ever closed before this Board? The answer apparently is "Never".

How is the public to know of this change? No legal notice was given and thus the public could not respond. In addition, the IEPA points out that by this Board's treatment of this request as a motion that it had only 7 days in which to reply in a matter of great complexity. IEPA had serious doubts on the merits but inadequate time to formulate them.

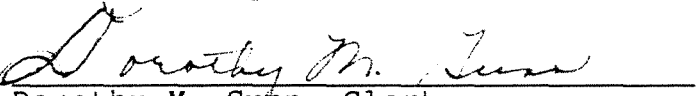
In past years a matter such as this would have been docketed as a "Variance from a Board Order". The present Board has never used this procedure which is ideal for these circumstances.

"Old and cold" cases should be left in that state. New variance proceedings should be required so that the public may participate as intended by the Environmental Protection Act.



Jacob D. Dumelle, P.E.
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Dissenting Opinion was submitted on the 15th day of November, 1990.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board