

ILLINOIS POLLUTION CONTROL BOARD
August 18, 1983

OLIN CORPORATION,)
Joliet Plant,)
)
Petitioner,)
)
v.) PCB 83-44
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

CONCURRING OPINION (by J. D. Dumelle):

In the discussion prior to the vote on the instant case it seemed that a sentence similar to one contained in the Opinion and Order in CPC International, Inc. v. IEPA, PCB 83-11, of this date, would also appear in the majority opinion. That sentence holding that variance applicants must be out of compliance does not appear but is implied on page 3 of the majority opinion.

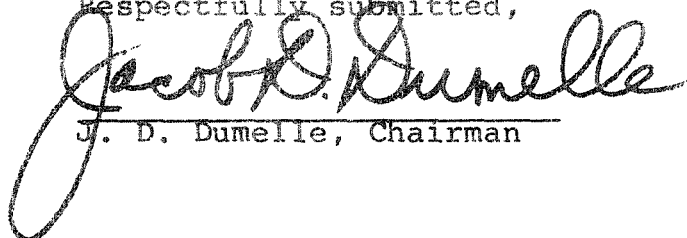
I do not agree with that sentence for reasons stated in my concurring opinion in PCB 83-11.

Another sentence occurs in this majority opinion that I do not agree with. On page 3 the sentence appears ". . . a Petitioner must demonstrate that timely compliance would impose hardship unique to its facility, that is, not by sources likewise regulated."

The Illinois Environmental Protection Act sets a requirement only that an arbitrary and unreasonable hardship must occur for a variance to be granted. Nowhere does it require that that hardship be "unique". Suppose such hardships occur to two or three other firms? Is Olin then estopped from variance relief? Of course not.

I agree with the denial reasons which list the lack of maximum calculated ground level concentrations of SO₂ and other deficiencies in the record.

Respectfully submitted,


J. D. Dumelle, Chairman

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Concurring Opinion was filed on the 28th day of August, 1983.



Christan L. Moffett, Clerk
Illinois Pollution Control Board