

ILLINOIS POLLUTION CONTROL BOARD
July 11, 1985

STAUFFER CHEMICAL CO., INC.,)
)
 Petitioner,)
)
 v.) PCB 85-26
)
ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY)
)
 Respondent.)

CONCURRING OPINION (by J.D. Dumelle):

My reason for concurring is that the majority's grant of the instant variance does not protect Stauffer Chemical Co. from future enforcement actions for the period from March 1, 1985 to July 11, 1985.

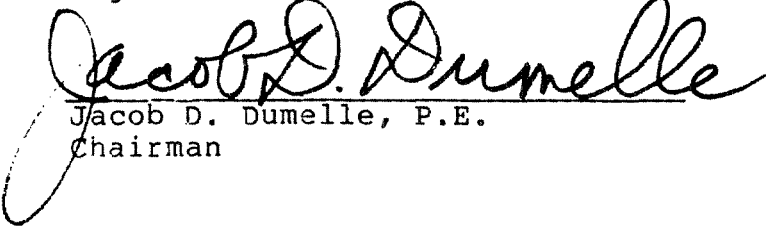
Condition No. 1 in the Order gives the beginning of this new variance not from the date of the expiration of PCB 79-230 (March 1, 1985) but from the date of the Order.

Since the Board majority had agreed to grant the variance it seems to me it ought to have also granted relief for that "gap" of 133 days.

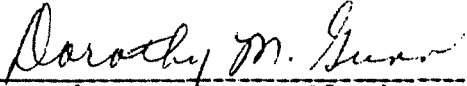
One may also argue that the Board's late decision on July 11 should not deny Stauffer protection from at least April 19, 1985 when all of its pleadings had been filed.

When industrial plants relocate to other states or when management decides not to expand at an existing site those decisions may rest on the perception of sincere interest by the State of Illinois in industry's wellbeing.

This lack of full legal protection, evinced here by the majority, if coupled with other actions by other state agencies, might cause a decision to relocate or not to expand or modernize.


Jacob D. Dumelle, P.E.
Chairman

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was filed on the 15th day of July, 1985.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board