

ILLINOIS POLLUTION CONTROL BOARD
November 29, 1990

COMMONWEALTH EDISON COMPANY,)
ZION POWER STATION,)
)
Petitioner,)
)
v.) PCB 90-223
) (Provisional Variance)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

DISSENTING OPINION (by J.D. Dumelle):

The oil being discharged to Lake Michigan under this variance grant could have easily been kept out of this great inland pristine sea. All that Edison had to do would have been to lease three 12,000 gallon tank trucks. By filling one every two hours with one in reserve and one in transit to nearby sewage treatment plants, all oil discharges to the Lake would have been eliminated. Sewage plants at North Chicago, and at Waukegan pump to Gurnee which discharges to the Des Plaines River and eventually to the Gulf of Mexico.

The permit, as revised, now allows up to 75 mg/l of oil and grease for 120,000 gallons a day for 45 days. That comes to 12.5 gallons of oil a day and 562.5 gallons of oil over the 45-day period neglecting any amount captured by the oil booms. There are 42 gallons of oil in a standard barrel. Thus, some 13.15 barrels of oil will now unnecessarily flow into Lake Michigan, a major drinking water supply for millions of people in Illinois, Wisconsin, Indiana, and Michigan.

But what is 13 barrels of oil in Lake Michigan? The best-selling publication "50 Simple Things You Can Do to Save the Earth" by the Earthworks Group states "A single quart of motor oil can pollute 250,000 gallons of drinking water." (p. 52). The 13 barrels of oil to be discharged under this variance contain 2,250 quarts. Thus this grant will pollute 2,250 (250,000) = 562,500,000 gallons of Lake Michigan water. Are we not birds fouling our own nest?

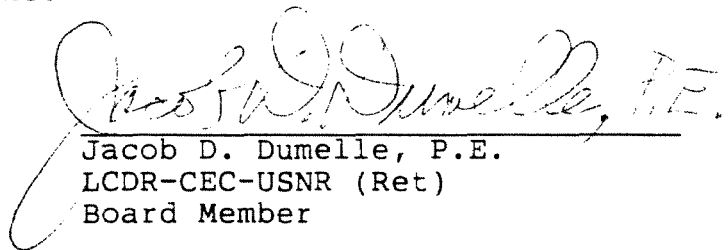
The majority, in discussion, indicated that legally the Board could only blindly ratify the IEPA's recommendation. But the majority did not analyze Section 35(b) of the Environmental Protection Act in conjunction with Section 36(a). Section 36(a) states that:

in granting a variance the Board may impose such conditions as the policies of this Act require.

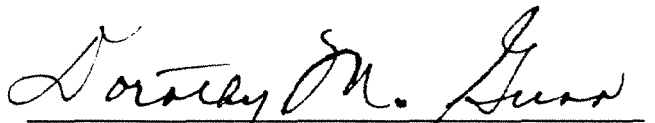
The Board, through the 10 years or so that Section 35(b) has existed, has read the mandatory approval of provisional variances apart from Section 36(a). But Section 36(a) dates to the 1970 enactment of the Act. It has always been there and the Legislature knew that when it enacted Section 35(b).

Put another way, a plain reading of the Act would have allowed the Board to impose conditions upon Edison. At the very least the oil booms offered by Edison should have been required by IEPA in its recommendation or added by the Board in its oversight function.

Provisional variances, with only two days allowed by law to the Board for decision, obviously do not have any public input. Here, where more than a half billion gallons of Lake Michigan water will be polluted, is a situation crying out for public input and for Board protection of a Great Lake.


Jacob D. Dumelle, P.E.
LCDR-CEC-USNR (Ret)
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 5th day of December, 1990.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board