

ILLINOIS POLLUTION CONTROL BOARD

August 12, 1976

CITY OF DES PLAINES, RICHARD F. )  
WARD, and ROSEMARY S. ARGUS, )  
 )  
Complainants, )  
 )  
 )  
v. ) PCB 76-157  
 )  
 )  
METROPOLITAN SANITARY DISTRICT OF )  
GREATER CHICAGO and THE ILLINOIS )  
ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
Respondents. )

DISSENTING STATEMENT (by Mr. Dumelle):

This cause is once again before the Board on an alternative Motion to Reconsider and Vacate its Order of July 8, 1976 and to Grant the Complainants leave to file a Second Amended Complaint Instanter. I moved to grant this alternative Motion but received no second.

In my Dissenting Opinion of July 8, 1976 I dwelt at length upon the possibility of a health hazard from airborne bacteria or viruses from this new sewage treatment plant. The new material considered today cites an article in Public Health Reports. Unfortunately, the article was not furnished to us and no Board Member has yet seen it.

Group Exhibit "C" which was attached to the rejected Second Amended Complaint is a U.S. Environmental Protection Agency memo dated February 4, 1975 (the year is obliterated but seems correct from the text). This Exhibit clearly shows that the matter of a possible health hazard from sewage treatment plant aerosols was explored thoroughly by Federal authorities and that covering of the tanks may be required by them. Therefore, the MSDGC cannot claim surprise on this matter. And the City of Des Plaines and the resident-complainants ought to be able to litigate this matter before us. To allow a sewage plant to be built and then to determine that a public health hazard exists is folly if that determination can be made in advance. Why expose nearby residents for 1-2 years while retrofitting of tank covers and air purification equipment takes place?

The counsel for the Complainant argued on August 12 that the water supply of residents had been polluted by the on-going construction and that this had first occurred on or about August 10, 1976. No notice of this was served upon the Board or the Respondents and due process in this matter is lacking. The Board could entertain a complaint based upon this allegation but injunctive relief can only be had in the courts.

Several of the allegations of the complaint seem to be based upon a misreading of the Board Regulations. Count 13(D) assumes incorrectly that process weight regulations apply to sewage treatment plants. Counts 13(F) and 13(G) refer to regulations devised to deal with organic solvents which are precursors to photochemical smog formation. Counts 11(A), 11(B) and 11(C) are not proper since Rule 916 of the Water Pollution Regulations has not been triggered. The foregoing is not meant to be exhaustive.

In conclusion I would have allowed the Second Amended Complaint on at least Counts 9(A) and 9(B).

Submitted by Jacob D. Dumelle  
Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Statement was submitted on the 17<sup>th</sup> day of August, 1976.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board