

ILLINOIS POLLUTION CONTROL BOARD  
October 9, 1975

ILLINOIS CENTRAL GULF RAILROAD, )  
CENTRALIA SHOP, )  
 )  
Petitioner, )  
 )  
 )  
v. ) PCB 75-222  
 )  
 )  
ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
Respondent. )

DISSENTING OPINION (by Mr. Dumelle):

My reason for dissenting in this case is because no data were submitted by the Petitioner as to whether the present paint discharge violates ambient air quality standards in the immediate vicinity of the source.

It seems to me that this proof is necessary under the intent of Train v. NRDC (April 16, 1975). In a variance proceeding this then becomes the Petitioner's burden. We know that these discharges were a nuisance and excessive since in the earlier case, (PCB 73-547, decided November 22, 1974) testimony was entered as to the need to "no longer wash our windows, we scrape them".

The distance at which the paint discharges have been in evidence has been reduced "fivefold" by the temporary retaining fence which is 25 feet in height. Whether what still escapes violates the Federal and Illinois suspended particulate weight standards is not known on this record.

The Petitioner did not carry his burden under Train and I would have denied the Petition for this reason.

  
\_\_\_\_\_  
Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board hereby certify the above Dissenting Opinion was submitted on the 15th day of October, 1975.

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