ILLINOIS POLLUTION CONTROL BOARD October 3, 1972

JOHN W. BENDER)))	
v.)))	PCB 72- 324
ENVIRONMENTAL PROTECTION AGENCY)	

CONCURRING OPINION (by Mr. Dumelle)

My reasons for voting for the grant of this variance to connect a completed house to an overloaded sewer system are different than those of the Board majority.

The house is complete and if required to remain empty would impose a severe hardship upon Mr. Bender. That is the long and short of it. (See Dissenting Opinion in Mark E. Cook v. EPA, PCB 72-178, August 29, 1972.)

The Board majority constructs a new theory of reliance upon which to base its grant. I believe one could argue just as well that most substantial sewage treatment plant changes normally take from 24 to 30 months to accomplish from start to finish. Thus Mr. Bender should have added these periods of time to the initial ban date of March 31, 1971 resulting in expected dates of March 31, 1973 at the earliest and September 30, 1973 at the latest and constructed his house accordingly. Had he planned to start his house later than he did he would not then have been caught by the overloaded sewer ban of April 21, 1972.

I agree with the decision but for reasons of hardship to the individual and to the neighbors in having a life's investment standing idle prey to vermin and vandals.

Jacob D. Dumelle Board Member

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Concurring Opinion was submitted on the day of November, 1972.

Christan L. Moffett, Clerk

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