

No person shall: Cause or threaten or allow the discharge of any contaminants into the environment in any State so as...to violate regulations or standards adopted by the Pollution Control Board under this Act;

The pertinent regulations are, of course, SWB-15, which was preserved in full force by the Act. For the stream sector in question Rule 1.03 governs. The pertinent section of 1.03 reads in full as follows:

1. These General Criteria, in addition to specific criteria, shall apply to all waters at all places and at all times.
 - a. Free from substances attributable to municipal, industrial or other discharges that will settle to form putrescent or otherwise objectionable sludge deposits; or substances (coal fines, quarry fines, fly ash, limesludge, etc.) which will form bottom deposits that may be detrimental to bottom biota.

The lime dust or chips discharged by McHugh is identical to "quarry fines" which are specifically prohibited above. It seems to me that McHugh et al, received ample notice in the amended complaint in light of a specific listing in the only regulation on that stream sector forbidding discharge of the identical materials they were in fact discharging.

I would also disagree with the conclusions of the majority opinion (p. 7) regarding the alleged violation of Section 12(d) of the Act. To me, the testimony of Mr. Burton (R. 144) (quoted on p. 7 of the majority opinion) was a flat admission that the limestone fines had in fact washed to the river during rains in the past.

One last comment. The portions of the record dealing with technical testimony were poorly reported and it is fortunate the case did not rest upon this. A reader can perhaps translate "milligrams per leader" (R. 213) to "milligrams per liter" and "alluent", "affluent" and "alluents" (R. 192, 198) as various forms of "effluent." But to take "inez" (R. 220) and to realize that "ionize" was meant or to determine what was meant by "subcivity" (R. 200) is asking too much both of this Board and certainly of a court sitting in review of this record.



Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 19 day of May, 1972.



Christan L. Moffett, Clerk
Illinois Pollution Control Board