

ILLINOIS POLLUTION CONTROL BOARD
July 21, 1982

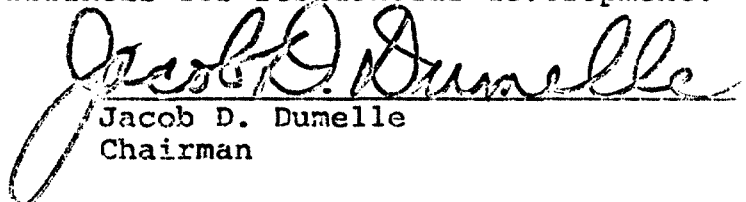
IN THE MATTER OF:)
)
PROPOSED AMENDMENT OF) R76-14
RULES 101, 205, 206 AND 209)
OF THE NOISE REGULATIONS)

DISSENTING OPINION (by J.D. Dumelle):

My reason for dissenting in this proceeding is the Board's rejection of the protection of new residential uses from existing forging noise. Other Board Rules on noise protect new uses of a residential nature from excessive noise. This rule change enacted today does not give that same protection. I would have not adopted Rule 206(e). The variance mechanism would then have functioned to examine closely the noise levels and economics of noise abatement for any existing forging shop.

What the Board has done with passage of Rule 206(e) is to say "the forging shops were there first and will forever prevail." In some cases, the adjacent vacant land might have been owned by the titleholder for years preceding the forge shop's establishment. Now those homeowners have little recourse except expensive noise nuisance suits.

The "noise unlimited" zone set up by Rule 206(e) is a one mile radius from the existing forging operation. That zone is about 2000 acres. There appear to be 34 noncomplying forge shops. Thus Rule 206(e) exempts (34)(2000) or 68,000 acres from residential protection. How many landowners were hurt by this action? How many plans for future development are now dead? What growth has been stifled? I do not believe the answers to those questions are in the record. Without those answers, Rule 206(e) should not have been enacted. That 106 sq. mi. should have been protected in the same manner as other Board Rules on noise protect all lands in Illinois for residential development.


Jacob D. Dumelle
Chairman

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 26th day of July, 1982.


Christan L. Moffett, Clerk
Illinois Pollution Control Board