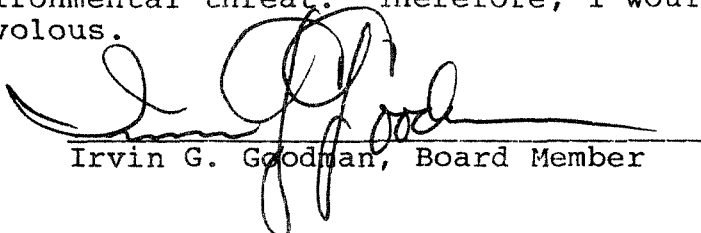


ILLINOIS POLLUTION CONTROL BOARD  
April 15, 1982


KENNETH STEEL, et al.,            )  
  )  
                          Complainants,    )  
  )  
                          v.                    )                    PCB 82-16  
  )  
GEORGE BEUCHER, et al.,         )  
  )  
                          Respondents.    )

DISSENTING OPINION (by I. Goodman):

The majority of the Board today found the Complaint in this matter, which alleges a threat of water pollution in Illinois, not to be duplicitous or frivolous. Formerly the Board has held that only a definite danger of pollution, i.e., the existence of an emission source, constitutes a "threat" of pollution pursuant to Section 12(a) of the Act. Springfield Sanitary District v. Environmental Protection Agency, PCB 70-32, 1 Ill. PCB Op. 181, (1971) and City of DesPlaines v. Metropolitan Sanitary District, 60 Ill. App.3d 995, (1978), 377 N.E.2d 114 (PCB 76-157). The Board now has before it only the Respondents' preliminary developmental plans. As such, these plans cannot provide the Board with sufficient information for it to determine whether the environment may be harmed. In accepting this case, the Board must now anticipate what the Respondent will develop, let alone whether it may be harmful. Speculation in this case, and other cases like it, renders it impossible for the Board to arrive at an intelligent decision. Should a decision uphold the Respondents' plans, does that infer that if those plans are adhered to, the Respondent is immune to prosecution even if their actual implementation harms the environment? Furthermore, it is questionable whether any relief fashioned by the Board at this time could halt what the Complainants see as an environmental threat. Therefore, I would dismiss this action as frivolous.

  
Irvin G. Goodman, Board Member

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Dissenting Opinion was filed on the 2d<sup>nd</sup> day of April, 1982.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board