

ILLINOIS POLLUTION CONTROL BOARD  
August 13, 1971

FARMERS OPPOSED TO EXTENSION OF THE )  
ILLINOIS TOLLWAY et al. )

v. )

ILLINOIS STATE TOLL HIGHWAY AUTHORITY )  
et al. )

# PCB71-159

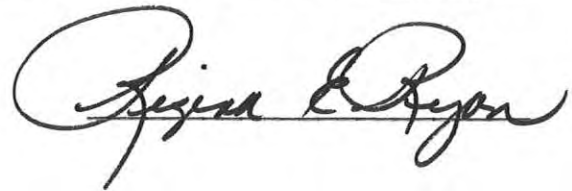
Opinion and Order of the Board (by Mr. Currie):

On July 12 we entered an order inviting the respondents to file a response addressed to the issue of whether or not this complaint is duplicitous or frivolous, and allowing an additional 20 days for the filing of briefs on the subject. The response has been received; it is a motion to dismiss and will be passed on after receipt of the requested briefs. We have also received from the complainants a motion to vacate our July 12 order insofar as it contemplates a pre-hearing determination of the jurisdictional questions and to proceed with an immediate hearing on the merits. The suggested reason for this urgency is that construction of the challenged tollway extension was to begin within fourteen days after the preparation of the motion, or just about now.

If we proceeded to hearing without first determining our jurisdiction, we might spend several days and thousands of dollars in trying the case only to discover that the entire proceeding had been a waste of time. This is especially true in a case like the present one, which raises a number of novel and interesting questions of statutory interpretation that must be resolved. Moreover, if we did hold a hearing at once we could not do what is requested, namely, resolve the controversy before construction gets well under way. Not only would the hearing itself take some time; thereafter we should have to wait three or four weeks for the transcript, study it, discuss the case, and prepare an opinion. What the complainants really seem to be seeking is temporary injunctive relief to preserve the status quo pending our resolution of the case, and such relief the statute does not authorize us to give. *Lloyd Fry Roofing Co. v. EPA*, #71-4 (May 12, 1971). If such relief is necessary, the place to get it is in the Circuit Court.

We adhere to our earlier order and will pass upon the jurisdictional questions, as posed by the motion to dismiss, upon receipt of the requested briefs. The motion to vacate our order of July 12 and to hold an immediate hearing is denied.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion and Order this 13th day of August, 1971.

A handwritten signature in cursive script that reads "Regina E. Ryan". The signature is written in black ink and is positioned to the right of the typed text.