

ILLINOIS POLLUTION CONTROL BOARD

June 7, 1973

ENVIRONMENTAL PROTECTION AGENCY)

v.)

PCB 72-109)

ALLIED CHEMICAL COMPANY)

CONCURRING OPINION (by Mr. Dumelle)

The penalty assessed by the Board in this proceeding was much too low. The opinion lists 8 violations of Rule 1.05(b) of SWB-14; eleven violations each of Rule 1.03(a), (b), (c), and (d) of SWB-14 and violations of Section 12(a) of the Act from October 26, 1970 continuously.

Using the penalty provisions of the Act of a maximum of \$10,000 for a violation plus \$1,000 per day the Board could have assessed penalties of perhaps \$734,000 instead of the \$7,500 it chose to put on Allied Chemical Company. I would have placed a penalty of at least \$15,000 on Allied in this proceeding.

The examination of Mr. William J. Tucker, (a professional biologist for the Agency) on August 1, 1972 is revealing in its directness:

"Q. You found no evidence of fish life in this stream, did you?

A. No, sir.

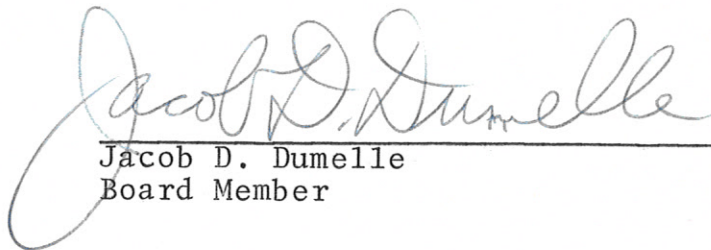
Q. Okay.

A. I found no life". (R. 102-3).

The record clearly shows that technology was available to abate these discharges (R. 272) and that Allied delayed doing so because of its business negotiations with Shell (R. 273). Yet it chose not to apply for a variance and did not come before this Board voluntarily to make a hardship case but had to be brought in by the Agency in an enforcement proceeding.

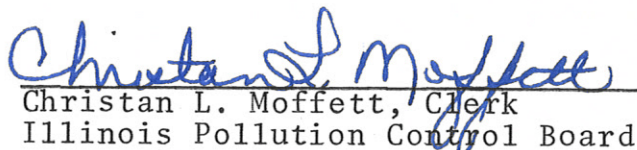
Penalties are to punish and to penalize and to deter. Where the polluter is a giant corporation in the chemical business with the financial and technical resources to handle its problem it should pay heavily for deliberately flouting the water pollution control regulations of Illinois.

Allied Chemical ranks 89th largest of the industrial corporations of America (Fortune, May, 1973, p. 224). It had sales of \$1,500,977,000 and net income of \$66,037,000. With 32,690 employees it certainly possessed the requisite technical competence in house to solve the effluent problem in St. Clair County. And a national corporation should be willing to move its funds from plant to plant to meet the temporary pollution control needs which exist. Allied Chemical could have and should have done better by the environment.



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 18th day of June, 1973.



Christan L. Moffett, Clerk
Illinois Pollution Control Board