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BOOK REVIEW

Environmental Regulation of Industrial Plant Siting

By Christopher J. Duerksin, Esq. Washington, D.C., The Conservation Foundation, 1983. Pp. 232. \$15.00 (paperback).

This important book on the problems of preserving the environment while accepting and encouraging industrial growth begins by stating that the environmentally aware decade of the 1970's ended with many unanswered questions concerning the impact of the various environmental laws and regulations which had been recently enacted. During the 1970's, a national environmental policy was forged rather dramatically by the National Environmental Policy Act (NEPA) and the Clean Air and Water Acts. No longer were lakes and rivers to be used as industrial sewers, nor the environmental problems of modern society ignored. States and local communities followed the nation's lead so that a vast regulatory system was created to protect an endangered environment. The changes in the public attitude and in protective regulations were dramatic.

These new policies and the accumulation of scientific information showing how environmental degradation might successfully be avoided led to a worldwide public outcry for sensible planning of residential, commercial and industrial land uses. This book deals specifically with how industries have adjusted to the stricter duties imposed upon them by environmental regulations and the varying degrees of effective compliance which have been achieved.

The author, Christopher J. Duerksen, an attorney, headed a team of investigators conducting an in-depth study of over one hundred industrial siting cases in the United

States and Europe. They concluded that environmental regulations do not force United States industries to shop for "pollution havens" abroad, nor do such regulations result in industries moving interstate to avoid restrictions. Moreover, they concluded that environmental red tape is not strangling industrial development in the United States or abroad.

Three case studies in particular are focused upon in the book. The author compares the ease with which permits were obtained in the years prior to the enactment of NEPA (before 1970) with the difficulties industries encounter today. In 1968, the Goodyear Tire and Rubber Company was able to locate a site, build a plant and begin manufacturing tires all within a period of thirteen months. In contrast, three major industrial projects which were started in 1974 were abandoned by 1986 after years of litigation.

The first of these ill-fated projects was a refinery and marine terminal to be built by Cox Industries of Atlanta, Georgia on the Elizabeth River near the Chesapeake Bay at a cost of \$350,000,000. The second was a chemical production facility to be built by Dow Chemical Company twenty-five miles from San Francisco on the Sacramento River at a cost of \$500,000,000. The Dow project required sixty-five separate permits and approvals. The third project considered was a crude oil terminal and pipeline to be built near Long Beach, California by The Standard Oil Company of Ohio (SOHIO). The SOHIO terminal would have also cost close to \$500,000,000 and required seven hundred and three permits, approvals and right-of-way agreements (eighty-nine of which involved discretionary government action).

The author points out that these three companies may have suffered from a one-sided attitude that because of the economic benefits of their projects, the environmental permits should be granted promptly and without conflict. The author believes that had the industries made a more realistic assessment of the public and regulatory problems these huge projects created, and if the industries had dealt frankly and carefully with these problems, the permitting process could have proceeded at a quicker pace and fewer problems would have been encountered.

Experienced environmental analysts, such as the author and his research team, as well as regulators, have learned how to approach the regulatory morass with more precision and success. The concerns of those who practice in the field seems to be that confrontational planning is not uncommon. Examination of environmental restrictions is often treated as an afterthought to the key plan. Thus, the supervision of the contractors who implement the plan leaves much to be desired. Seventy-five percent of the industry-siting specialists surveyed by the research team voiced opposition to state agencies having authority over local decisions.

However, Mr. Duerksin indicates that some states, including Colorado, have had some success in developing a cooperation-based strategy through which industries, regulators and the public can communicate with each other to prevent disasters such as the SOHIO project. The governor of Colorado and an attorney who was the head of the Colorado Department of Natural Resources worked with Amax Corporation in an experiment of participatory planning. In this situation, the state acted as a mediator. Amax wished to develop a large new mine and was successful, after reaching the conclusion that it was better to be willing to discuss the project and deal with public and agency questions in a fair way rather than operate on a confrontational basis.

The last two chapters make careful comments on the problems that must be faced, including attitudes that should be avoided by regulators, by those regulated and on the value of effective mediation. This reviewer can hardly escape the conclusion that while the regulation of industrial plants is a complicated situation for those who are involved, developers have the power and resources to take a constructive view of the problems of research, disclosure and mitigation. Thus,

making proponents out of antagonists can help avoid many common troubles.

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