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February 10, 1971

RECEIVED

FEB 22 1971

CHIEF OF COURT RECEIVED

The Honorable William J. Littell
Clerk
United States District Court
Southern District of Illinois
Southern Division
Springfield, Illinois 62701

Re: Southern Illinois Builders Association,
et al. vs. Richard B. Cgilvie, Governor,
State of Illinois, et al.
Civil Action No. 4748

Dear Mr. Littell:

Please file on behalf of Defendants Richard B. Cgilvie, Governor of the State of Illinois, William F. Cellini, Director of the Department of Public Works and Buildings of the State of Illinois, Richard H. Colterman, Chief Highway Engineer of the Division of Highways, Department of Public Works and Buildings of the State of Illinois, and Robert E. Kronst, District Engineer, District No. 8, Division of Highways, Department of Public Works and Buildings of the State of Illinois, the enclosed Motion to Dismiss Complaint together with proof of service thereof.

Thank you very much for your cooperation.

Very truly yours,

James M. Winning

JMW:les
encl.

cc: Mr. Paul J. Wisner
Mr. William P. Ryan

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Y

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
SOUTHERN DIVISION

SOUTHERN ILLINOIS BUILDERS ASSOCIATION,	)	
a Corporation, et al.,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION
-vs-	)	
	)	NO. 4748
RICHARD B. OGILVIE, Governor, State of	)	
Illinois, et al.,	)	
	)	
Defendants.	)	

MOTION TO DISMISS COMPLAINT

UNDER RULE 12

Now come Defendants, RICHARD B. OGILVIE, Governor of the State of Illinois, WILLIAM F. CELLINI, Director of the Department of Public Works and Buildings of the State of Illinois, RICHARD H. COLTERMAN, Chief Highway Engineer of the Division of Highways, Department of Public Works and Buildings of the State of Illinois, and ROBERT E. KRONST, District Engineer, District No. 8, Division of Highways, Department of Public Works and Buildings of the State of Illinois, by their attorney, William J. Scott, Attorney General of the State of Illinois, and move the Court to dismiss the Complaint and strike the action herein against said Defendants, pursuant to the provisions of Rule 12 of the Federal Rules of Civil Procedure, and for an order assessing the costs hereof against the Plaintiffs, and in support of said motion say:

1. Plaintiffs have no legal interest in the property or subject matter of the proceeding alleged in the Complaint and consequently do not have standing to sue.

2. The alleged actions of said Defendants do not violate the Civil Rights Act of 1964 or the 5th or 14th Amendment to the Constitution of the United States.

3. Article III of the Constitution of the State of Illinois prohibits judicial coercion of the Executive Branch of government in the State of Illinois.

4. Section 26 of Article IV of the Constitution prohibits a suit against the State of Illinois.

5. The State of Illinois is not subject to or controlled by the provisions of the Civil Rights Act of 1964.

6. Plaintiffs have failed to state a claim upon which relief can be granted against these Defendants.

RICHARD B. OGILVIE, Governor of the
State of Illinois

WILLIAM F. CELLINI, Director of the Department of Public Works and Buildings of the State of Illinois

RICHARD H. GOLFERMAN, Chief Highway Engineer of the Division of Highways, Department of Public Works and Buildings of the State of Illinois

ROBERT E. KRONST, District Engineer, District No. 8, Division of Highways, Department of Public Works and Buildings of the State of Illinois

By 
William J. Scott, Attorney General
of the State of Illinois
Springfield, Illinois 62766

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OF COUNSEL

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PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon all parties to the above cause, or upon their attorneys of record, by enclosing the same in an envelope addressed to each at the business address of each as disclosed by the pleadings of record herein, with postage fully prepaid, and by depositing said envelope in a United States Post Office Mail Box in Springfield, Illinois, on the 10th day of February, 1971.

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