

ILLINOIS POLLUTION CONTROL BOARD
August 17, 1990

IN THE MATTER OF:)
)
DEVELOPMENT, OPERATING AND)
REPORTING REQUIREMENTS FOR) R88-7
NON-HAZARDOUS WASTE LANDFILLS) (Rulemaking)

CONCURRING OPINION (by B. Forcade and J.D. Dumelle)

We respectfully concur with today's Opinion and Order. It is important to note that today's decision involves a voluminous revision to the solid waste regulations of the State of Illinois. We strongly support the vast majority of that regulatory action, but we disagree with the language at Section 811.101(b), which exempts steel, utility, and foundry wastes from nearly all regulation for newly constructed landfills. We would have deleted subsection (b) in its entirety. Therefore, we concur in today's action.

Today's proposal completely revamps the state regulation of non-hazardous solid waste landfills. An overly simplified description is that all solid waste is divided into "inert waste" or "putrescible and chemical waste". Landfills must be designed and operated according to different standards based on which of the two wastes they intend to receive. Unfortunately, new landfills that receive waste only from certain industrial categories (foundry, primary steel, and coal burning electric utilities) have been exempted for a period of time.

Our reason for objecting is that the record does not demonstrate that the exempted wastes are less harmful to the environment than "inert waste" or "putrescible and chemical wastes". Also, a primary reason for the exemption is that industry will propose specific regulations for these wastes. The record does not show that new landfills for these exempted wastes will be necessary before alternative specific regulations could be adopted. As pointed out by the Illinois Environmental Protection Agency ("Agency") in their comments:

The Agency strongly opposes the currently proposed exemption for the steel, utility and foundry industries. No persuasive evidence has been provided by any of these industries to demonstrate their landfills pose less of a threat to the environment than other landfills.

These industries have been purporting to have proposed rules to govern their landfills, if this is the case, where are they ? These industries have had more than sufficient time during this rulemaking to present any such proposal. Strangely, they have not. The Agency urges the Board to make the rules applicable to these industries when adopted. They may then file their proposed regulations as a modification to the existing rules. The Agency recommends that Section 811.101 (b) be deleted in total.

(Public Comment #34, p. 4)

The flaw of allowing such a broad based exemption on so little justification was also recognized by Waste Management of Illinois:

We have previously commented that this exemption has not been supported at all for the steel industry while the justification provided for the foundry industry reveals significant groundwater problems from foundry operations. The exemption proposed is unsupported and unwise.

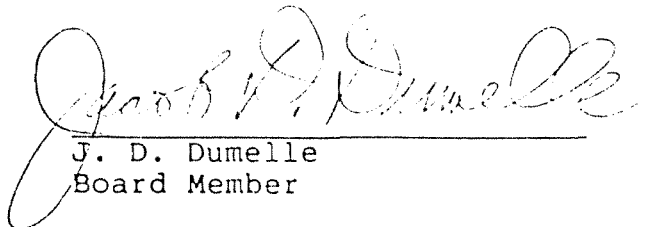
(Public Comment #38, p. 2)

We strongly agree that the exemption is unsupported and unwise. In addition, it is most troubling that the exemption applies to new landfills. If a landfill is not properly designed when built, it becomes very difficult to retrofit an improved design after the landfill is full of waste. The provisions of Part 807 do not contain any landfill design criteria. Most of these facilities will be on-site, and are therefore exempt from the permitting requirements pursuant to Section 21 (e) of the Act. As a result, the majority of Part 807 will not even apply to them. In short, these landfills will have far less design and environmental protection regulatory requirements than apply to any other new landfill in the state, even those accepting wastes with less risk of environmental harm.

For these reasons we cannot support the exemption.

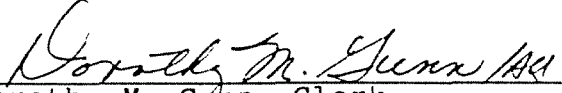


Bill S. Forcade
Board Member



J. D. Dumelle
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was filed on the 27th day of August, 1990.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board