

ILLINOIS POLLUTION CONTROL BOARD  
March 1, 1990

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

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

We agree generally with the regulatory approach embodied in the majority Opinion and Order. However, that approach sets up quite stringent controls over landfills accepting generalized waste, and virtually no protective controls are required for landfills accepting only inert waste. We believe the present approach allows great potential for abuse and for environmental harm as it pertains to these inert waste landfills. Accordingly we concur, urging consideration of more stringent controls for inert waste landfills.

Our concerns relate to inadequate controls on the siting, operation, and design of inert landfills and on the inadequate test protocol used to define inert waste. The first set of concerns is best defined by the following three examples of possible misuse of the system.

The X industrial company produces hazardous waste, special waste that is not inert, and inert waste. They are located on relatively porous soil above an aquifer that is used for both private and public water supplies. Because of the Board's new regulations they decide to build an on-site landfill to handle the inert waste they generate. Joe, the Assistant Engineer, is given responsibility to operate the inert landfill.

One day Joe innocently picks up the wasteload on the "east" side of building 66 instead of on the "west" side. By mistake Joe has picked up the hazardous waste (or the non-inert special waste). Thinking he has the inert waste, Joe fills out any necessary paperwork as though he was dumping inert waste into the landfill. Because there are no restrictions on where the landfill can be located, and because there are no liner requirements, and because there is no monitoring, this situation is not detected until the aquifer contamination has already occurred. The private wells' users do not detect the contamination, they just drink it. The public water supply officials detect the contamination, but they have to pay tax dollars to purify the water.

Second situation: One day Joe is sick. Harry knows that Joe always takes "this here waste stuff" to the landfill out back, so Harry will take it and tell Joe later. Harry forgets to tell Joe. Same result as above.

Third situation: Joe has to fill out the hazardous waste paperwork for the company, but he has been behind in his work. Now he has two drums of hazardous waste that are already past the 90 day storage limit. If Joe tells his boss then the Company will have to ask for provisional variances and all that junk, which will just make his boss mad at Joe for being behind in his paperwork. "Just this once", Joe decides to "misplace" the material into the landfill out back, without documentation. After all, who will know ?

Our difficulty with the existing proposal is that once an improper substance gets into the "inert" landfill for whatever reason, all environmental protection mechanisms are missing.

1. There are no "location" standards such as Section 811.302 to keep the landfills away from water supply sources.
2. There are no liner and soil foundation standards such as Sections 811.304 to 306 to reduce the leakage from the landfill into the aquifer.
3. There are no groundwater detection monitoring requirements or standards of any kind. See 811.318 - 320.

No amount of "random load checking" or "additional manifest requirements" would detect or prevent the three scenarios described above. There must be some method of detecting material that has been improperly placed into an inert landfill or some method to prevent such landfills from being located near drinking water supplies, or both.

We are not suggesting elimination of the inert waste concept, just some protection for mistakes. The concept of unpermitted wastes being deposited in an inert type landfill is more than hypothetical in Illinois. In Wasteland, Inc. v. Ill. Pollution Control Board, 118 Ill. App. 3d 1041, 456 N. E. 2d 964 (Third District, 1983), the landfill was permitted to receive "brick, concrete, pavement, glass, clay, tile, ceramics...", but not putrescible or combustible material. The court stated:

The landfill herein was granted a permit for those wastes, while the record clearly demonstrates that large amounts of paper, cardboard and garbage were accepted. Because

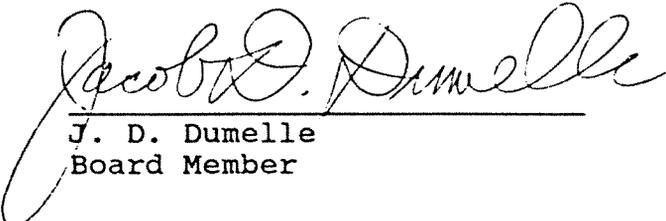
the permit did not cover those materials, the measures designed to protect against water pollution where those materials were being deposited were not required of the landfill operators. Thus, no sufficient protective barriers were required or built into the landfill. No clay footliners [sic], designed to retain leachate, were present, nor were monitoring wells built to track such potential problems...

Id., at 151.

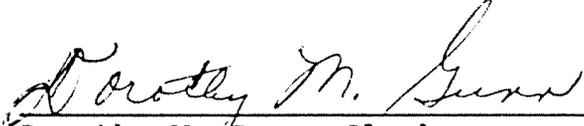
Our concern is that a Wasteland type situation would be very difficult to detect under the present proposal because of lack of monitoring. And, the present proposal provides no safeguards (such as restricting siting near aquifers, or liner requirements) to reduce the likelihood of environmental harm. We think such safeguards should be added to the present proposal in at least some form.

Regarding the test to determine what is an inert waste, we also have problems. A concern is that the acidity of the rainfall falling upon a landfill for "inerts" may cause leachate problems. Illinois rainfall has been measured as acid as pH 3.9 and averages about pH 4.2. Whatever fluid is used to test "inerts" should have at least the same maximum acidity as occurs in Illinois rainfall.

  
 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 30<sup>th</sup> day of March, 1990.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board