ILLINOIS POLLUTION CONTROL BOARD
February 23, 1989

IN THE MATTER OF:)
)
CITY OF SPRINGFIELD,   )   AC 89-3
)
            Respondent.   )

CONCURRING OPINION (by M. Nardulli):

    In this matter, the Illinois Environmental Protection Agency
("Agency") alleges that the City of Springfield has violated
Section 21(p)(1) of the Act by allowing "refuse in standing or
running water." In support of this allegation the field
inspector filed an affidavit in which he stated that he inspected
the landfill on the specified date but fails to elaborate on the
conditions that were the basis for the violation.

    The City of Springfield has not filed a Petition for Review
with the Clerk of the Board within 35 days of the date of service
as allowed by Section 31.1(d)(2) of the Act. Therefore, pursuant
to Section 31.1(d)(1) and consistent with its practice in
administrative citation matters, the Board found that the City of
Springfield had violated the provision and imposed a penalty of
$500.00.

    Under Section 31.1(d)(1), the Board has little discretion in
finding a violation and imposing the penalty if the party named
in the citation fails to petition for review. Therefore, I
concur in the Board's action. I am, however, disturbed by the
fact that the Agency has failed to elaborate on the conditions
that resulted in the violation. Based on the information in the
citation and affidavit, it is impossible for the Board to
determine the severity or avoidability of the violation.
Further, the lack of specific information is common in
administrative citation cases. I request that the Agency and its
inspectors supply more specific information in the citations and
affidavits to allow the Board members a better understanding of
the matters on which they are voting.

    I, therefore, concur with the decision of the Board.

                            _____
                            Michael Nardulli, Board Member

96-337

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was submitted on the _____2nd_____ day of _____March_____, 1989.

Dorothy M. Gunn, Clerk,
Illinois Pollution Control Board