

ILLINOIS POLLUTION CONTROL BOARD
January 8, 1981

DONALD J. HAMMAN,)
)
 Petitioner,)
)
 v.) PCB 80-153
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

DISSENTING OPINION (by I. Goodman):

The majority of the Board today held that the Illinois Environmental Protection Agency (Agency) cannot use the existence of admittedly inadequate access roads to a proposed landfill site as a reason to deny a development permit pursuant to Rule 316(a)(4) of Chapter 7: Solid Waste of the Board's regulations. Rule 316 requires the applicant to prove to the Agency that the development of the sanitary landfill will not cause or tend to cause water or air pollution, will not violate applicable air or water quality standards, and will not violate any rule or regulation adopted by the Board. Rule 316 lists a number of parameters designed to inform the Agency as fully as possible with respect to the total environmental impact of a proposed landfill upon an area.

Under Rule 316(a)(4), the application shall include land use and population density of the proposed sanitary landfill site and of the area surrounding the site within one mile of the site's boundaries. The majority today found that this provision does not include the condition of access roads within one mile of the site's boundaries. However, given an otherwise permittable landfill site which is operated in compliance with all of the Board's and the Agency's rules and regulations, the major impact upon the surrounding area will be caused by the vehicular traffic to and from the site. If Rule 316(a)(4) cannot be read to address the effect of such vehicular traffic upon the land use and the population density within the area, then the rule has little meaning.

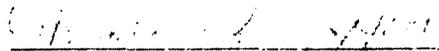
In the majority opinion the Board states "Operation of trucks over inadequate roads could violate the Board's regulations, especially with the respect to emission of particulate matter." This finding in and of itself mandates the Agency to deny the permit since it may tend to cause violation of Board regulations. Although it is apparent from the record herein that Mr. Hamman has acted in good faith in this matter, his remedy appears to lie in the courts as an action against those who refuse to allow him to repair the roads. Most certainly the remedy is not to forbid

Agency consideration of the effect of vehicular traffic on the surrounding area when it considers a development permit application. I would have upheld the Agency denial.



Irvin G. Goodman, Board Member

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Dissenting Opinion was filed on the 14th day of January, 1981.



Christan L. Moffett, Clerk
Illinois Pollution Control Board