

ILLINOIS POLLUTION CONTROL BOARD
October 27, 1994

CONTINENTAL WASTE INDUSTRIES)	
OF ILLINOIS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 94-138
)	(Siting Review)
CITY OF MT. VERNON, ILLINOIS,)	
)	
Respondent.)	

CONCURRING OPINION (by J. Theodore Meyer):

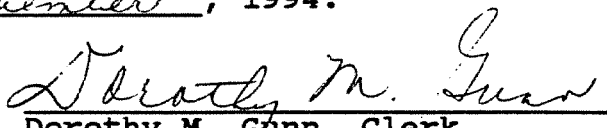
I fully agree with the majority opinion in finding that the Board has jurisdiction to consider this matter, that petitioner has failed to show that it was denied fundamental fairness, and that Mt. Vernon's decision denying siting approval was not against the manifest weight of the evidence. I concur only to express my continuing position that the Board does not have the power or authority to decide the constitutionality of Illinois statutes. As I stated in my dissenting opinion in People of the State of Illinois v. Santa Fe Park Enterprises, Inc. (September 23, 1983), PCB 76-84, the determination on the constitutionality of a statute is a power reserved exclusively to the judicial branch of state government. The Board, as an administrative agency, cannot exercise that power. Thus, I would not have substantively addressed the constitutional claims raised by petitioner.

For these reasons, I concur.



 J. Theodore Meyer
 Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above concurring opinion was filed on the 1st day of November, 1994.



 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board