

ILLINOIS POLLUTION CONTROL BOARD  
November 19, 1992

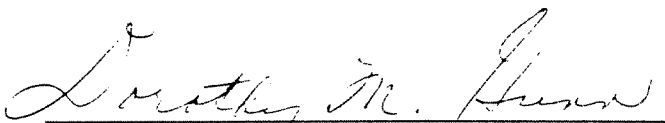
JAMES LYNCH, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 92-81  
 ) (Underground Storage  
 ILLINOIS ENVIRONMENTAL ) Tank Fund)  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

DISSENTING OPINION (by J.C. Marlin)

I decline to join the majority's opinion and order in this case. As stated in my dissent in Enterprise Leasing Co. (PCB 91-174, April 9, 1992), I do not believe that the original statute envisioned reimbursement for tank removal in a situation where a removal was underway when contamination was first discovered. In this instance the tank removal was not part of "corrective action". Such items as removal of contaminated soil is reimbursable as part of a cleanup. I believe the original statute envisioned reimbursement for tank removal when it was a part of a cleanup. The new statutory language makes that point clear. A similar situation existed in Galesburg.

  
J. C. Marlin

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was submitted on the 27<sup>th</sup> day of November, 1992.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

0137-0171