

ILLINOIS POLLUTION CONTROL BOARD
June 20, 1991

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 90-36
) (IEPA 192-90-AC)
) (Administrative Citation)
ESG WATTS, INC.)
a foreign corporation,)
)
Respondent.)

DISSENTING OPINION (by J.D. Dumelle):


This is a case of first impression on what constitutes "leachate". The testimony by Michael Rapps, P.E. showed that typical leachate has a characteristic color (red to orange-red), a sheen, and is strongly odiferous. (R. 138).

Mr. Rapps stated in answer to a question about the photographs providing evidence of landfill leachate:

It doesn't have the characteristics that I testified to. It looks like basically storm water. And the testimony I heard earlier that there was no odor associated with it, or no apparent odor, makes it hard to conclude, I think that it is leachate. (R. 148).

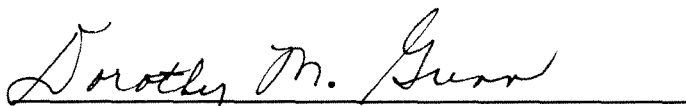
The situation here resolves itself to having rain water pass over some uncovered refuse. That stormwater has to be pumped out from this landfill. Even though the characteristic red color and strong odor of leachate were absent the majority has here found this largely stormwater discharge to be leachate.

When Section 21(p) of the Act was adopted I do not believe that a basically stormwater discharge from a landfill was meant to be prohibited where leachate characteristics are absent.



Jacob D. Dumelle, P.E.
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Dissenting Opinion was submitted on the 26th day of June, 1991.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board