## ILLINOIS POLLUTION CONTROL BOARD March 10, 1988

RICK MOORE, ELEANOR MORRIS and
LEONARD MORRIS,

Petitioners,

v.

PCB 88-24

WAYNE COUNTY BOARD and
DAUBS LANDFILL, INC.,

Respondents.

ORDER OF THE BOARD (by B. Forcade):

On February 22, 1988, the Board received a filing from the Natural Resources Defense Council ("NRDC") in this matter. That filing asserts, "It has been brought to NRDC's attention that the Illinois Pollution Control Board is considering the issuance of a permit to Daubs Disposal Service for the construction of a landfill..." The attachments to that filing provide facts on what constitutes adequate and inadequate landfill design.

NRDC misperceives the role of the Board in this proceeding. This Board is not deciding whether to permit a landfill. This Board is sitting as an appellate tribunal to review an adjudicatory decision rendered by the Wayne County Board (hereinafter "Wayne County"). The Board must decide whether the decision of Wayne County is against the manifest weight of the evidence, based on facts which were presented to Wayne County. In this case, the Board is not at liberty to accept new factual information bearing on landfills in general, or this landfill in particular. In certain limited circumstances the Board may be able to review new factual information where there is a claim that the material was lawfully presented to Wayne County, by a proper participant in a timely and proper manner, but Wayne County unlawfully rejected the information. No such claim has been made by NRDC. In addition, the filing made by NRDC contains no proof of service on counsel for the respective parties.

The Board will temporarily docket the February 22, 1988, filing as a public comment, with no determination on the propriety of the filing. By today's Order, the Board is informing the parties that the information is available in the Board's office for their review. The Board Orders that not later than March 31, 1988, NRDC and all parties file comments or briefs on what disposition should be made of the information filed by NRDC. For clarity, the Board directs the Clerk of the Board to

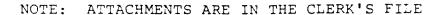
include a copy of the Environmental Protection Act (hereinafter "the Act") in the service on NRDC, as well as a list of the present attorneys of record. NRDC may wish to review Sections 40.1 and 39.2 of that Act, which governs the Board's activity in these review proceedings.

For NRDC's benefit, the Board notes that the instant proceeding involves the siting location approval for a landfill, not its permitting. Permitting of landfills is done by the Illinois Environmental Protection Agency pursuant to the provisions of Title V and Title X of the Act. Those permitting decisions must implement the Board's substantive regulations governing landfills. The Board's substantive regulations governing landfills are presently under review in regulatory proceeding R88-7. If NRDC has comments on statewide regulatory requirements governing the design and operation of landfills, the comments would be best directed to docket R88-7.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 10th day of 1988, by a vote of 7-0.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board





Vatural Resources
Defense Council

FEB 2 4 1988

STATE OF ILLIAMS
POLLUTION CONTROL BOARD

February 22. 1988

Illinois Pollution Control Board State of Illinois Center 100 West Randolph Street Suite 11-500 Chicago, Illinois 60601

PCB 88-24

## Dear Sirs:

I am a science associate with the Natural Resources Defense Council Inc. ("NRDC"), a national, non-profit environmental organization with a large staff of attorneys and scientists and approximately 70,000 members. In recent years, NRDC has become increasingly involved with solid waste management issues, including efforts at the federal and state levels to upgrade standards for municipal landfills.

It has been brought to NRDC's attention that the Illinois Pollution Control Board is considering the issuance of a permit to Daubs Disposal Service for the construction of a landfill on a 180-acre tract near Boyleston, Illinois. We are alarmed that, to the best of our understanding, the conditions of the permit do not call for liners, leachate collection systems, ground water monitoring and numerous other technologies and programs necessary to prevent environmental contamination hazards. Based on recent studies by the U.S. Environmental Protection Agency (EPA), such a facility could pose a significant environmental and public health hazard, particularly considering its size and siting in an area where the underground aquifer is used as a source of drinking water.

Municipal landfills, the vast majority unlined and lacking leachate collection systems<sup>1</sup>, constitute over twenty percent of the facilities on the federal Superfund National Priorities List (NPL). Another 2000 landfills, over twice the number of total facilities on the current list, meet the criteria for inclusion on the NPL. The Environmental Protection Agency (EPA) has found that 2,271 out of 9,284 municipal landfills, or approximately one-quarter, had recorded violations involving releases to

1. Resource Conservation and Recovery Act Subtitle D Report to Congress, Final Draft, May 28, 1987, U.S. EPA, Office of Solid Wastes Branch, 4-43.

environmental media.<sup>2</sup> Of the only 2,331 facilities with even rudimentary ground water monitoring programs, 586, or one-quarter, had ground water contamination violations.<sup>3</sup> The number of violations would undoubtedly be significantly higher if frequent and comprehensive inspections or adequate monitoring programs were the norm (for example, few current ground water monitoring programs can detect organics). EPA has estimated that "Depending on what assumptions are used, the percentage of landfills posing risks greater than the 10<sup>-6</sup> ranges from 17% to 40%."<sup>4</sup> Greater than 10<sup>-6</sup> population risks are generally of Agency concern.

Both EPA and a number of states have realized the urgent need to upgrade permitting standards. EPA has developed a comprehensive regulatory package to be proposed this spring that will to revise federal criteria for municipal landfills. When finalized, these will be, by federal law, minimum standards for state permitting programs. I have attached a recent draft of the proposed rulemaking. The package includes siting restrictions and requirements for ground water and air monitoring, liquids management, containment technologies (liners, leachate collection systems, covers, run-on/run-off controls), and financial responsibility. I should add that the current EPA proposals are a watered-down version of earlier, far stronger proposals from EPA working groups (see attachment for a more detailed discussion of the development of the EPA regulations). A number of states, including New Jersey, New York, and Pennsylvania, have significantly stronger requirements than EPA is proposing. For example, Pennsylvania requires double liners/double leachate collection systems for all new facilities and will prohibit siting of both new and existing facilities within eight feet of the water table. I have enclosed a copy of Pennsylvania's finalized regulations.

On behalf of our members in Illinois, NRDC respectfully requests that the State of Illinois reconsider its standards for permitting municipal landfills, in both the case of the Boyleston site and all future landfill permits in the state. We urge the State not to wait until EPA finalizes their regulations as the Boyleston site, if constructed under current standards, clearly

- 2. Resource Conservation and Recovery Act Subtitle D Report to Congress, Final Draft, May 28, 1987, U.S. EPA, Office of Solid Wastes Branch, 4-75.
- 3. Resource Conservation and Recovery Act Subtitle D Report to Congress, Final Draft, May 28, 1987, U.S. EPA, Office of Solid Wastes Branch, 4-75.
- 4. From June version of draft of EPA report to Congress on Subtitle D, as reported in <u>Inside EPA</u>, July 3, 1987, p.12.

poses a significant risk to water resources and the health and welfare of the citizens in the surrounding community. Other states, such as Pennsylvania and New York, upgraded their permit standards in practice long before finalizing changes through a rulemaking, prompted by an increasing awareness of the hazards we have described in this letter.

Please call or write if you have any questions. Thank you for your consideration of our concerns. I hope they will be of assistance in your decision-making.

Sincerely,

Bradford H. Sewell Science Associate

cc: Mr. Robert Redford

Ms. Eleanor R. Morris, People Against Landfill Sites (PALS)

Rick Moore, PALS Thomas L Kilbride

Leon S. Hosselton, Chairman, Wayne County Board

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