## ILLINOIS POLLUTION CONTROL BOARD October 1, 1987

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IN THE MATTER OF:

EUGENE FUNK

AC 87-99 (IEPA Docket No. 8573-AC)

Respondent.

## INTERIM ORDER OF THE BOARD:

This matter comes before the Board upon the September 11, 1987, filing of an Administrative Citation by the Illinois Environmental Protection Agency (Agency) and the September 17, 1987, motion for stay filed by the Respondent, Eugene Funk. For the reasons described below, the Board will take no action on the motion for stay at this time.

The Agency has alleged in the Administrative Citation that the Respondent is operating a sanitary landfill without an Illinois Environmental Protection Agency Operating Permit. In Illinois Environmental Protection Agency v. James Pressnall, (AC 87-6), the Board held that under Section 31.1 of the Act only permitted sanitary landfill operations are subject to Administrative Citation enforcement. As a consequence of the Agency's allegation, the Board will not authorize a hearing at this time.

The Agency is granted fifteen (15) days in which to file an Amended Administrative Citation which alleges that the facility is operating pursuant to permit or additional information which demonstrates enforceability of the Administrative Citation consistent with the <u>Pressnall</u> decision. Failure to respond within the fifteen (15) days will subject this proceeding to dismissal.

The Board notes that Section 31.1 grants Respondent 35 days in which to petition the Board for review of the Administrative Citation. To preserve this right, Respondent must still petition for review within the required 35 day time period.

IT IS SO ORDERED.

B. Forcade dissented.

I, Dorothy N. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted this M day of M day of M.

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Dorothy M. Gunn, Clerk Illinois Pollution Control Board