

ILLINOIS POLLUTION CONTROL BOARD  
July 26, 1979

ENVIRONMENTAL PROTECTION AGENCY, )  
)  
Complainant, )  
)  
v. ) PCB 79-13  
)  
JAMES ATHANS and BRANDENBURG )  
DEMOLITION, INC., )  
)  
Respondents. )

DISSENTING OPINION (by Mr. Dumelle):

My reason for dissenting is that the penalty of \$500 approved by the Board majority is much too low. The Respondent was notified that an Agency permit was required but continued dumping for 3½ more days (May 16, 1979 transcript, page 19).

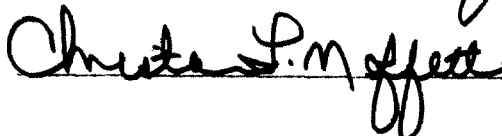
A person in the construction industry would certainly be aware of Agency permit requirements. Yet not only did the dumping begin without the permit but it continued after notification.

The photo introduced by a citizen witness (Erickson Ex. 2) clearly shows large amounts of wood dumped on the ground. The attorney for Brandenburg Demolition, Inc. stated that Mr. Athans "had wood on the site that was buried with the brick and concrete . . ." (May 16, 1979 transcript, pp. 12-13). Since his statement was unsworn, it is not clear if in fact wood has been buried at the site. Thus we do not know the extent of possible environmental harm.

For the blatant disregard of the permit requirement even after notification I would have rejected the settlement with its low penalty of \$500.

  
Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 7<sup>th</sup> day of September, 1979.

  
Christan L. Moffett