

ILLINOIS POLLUTION CONTROL BOARD
December 16, 1976

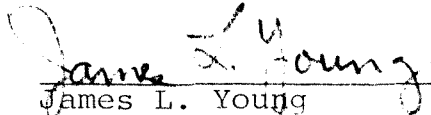
ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 76-29
)
 RONALD E. CARLSON,)
)
 Respondent.)

DISSENTING OPINION (by Mr. Young):


I do not agree to the modification of our Order of October 14, 1976 in this matter on an informal motion by the Henderson County Board. The County Board was not a party in the action and has no standing under our rules to move for the modification of the Order. I believe this action establishes a dangerous precedent and is in contravention of Procedural Rule 334 which requires such motion to be filed by any party within 35 days of final Order. In accepting the letter from the County Board, we allow a motion from a non-party made 48 days after final Order.

The record in the case indicates that Respondent Carlson had gone to the Board of Supervisors seeking assistance in relocating the refuse disposal operation to an environmentally acceptable site but that the supervisors had preferred not to get into the situation.

Since the County Board did not intervene in the case which they might well have done to protect the interests alleged in their informal motion, the only basis for relief would have been a timely Petition for Modification with supporting affidavits filed by Respondent Carlson or a Petition for Variance filed by the County Board.


James L. Young

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 22nd day of December, 1976.


Christan L. Moffett, Clerk
Illinois Pollution Control Board