

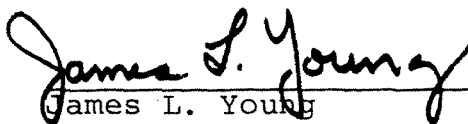
ILLINOIS POLLUTION CONTROL BOARD
August 5, 1976

LEONARD C. TRIEM, d/b/a TRIEM)
INDUSTRIAL BUILDING OPERATIONS,)
)
Petitioner,)
)
v.) PCB 76-32
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)


DISSENTING OPINION (by Mr. Young):

I respectfully dissent from the Opinion and Order of the Board in this matter.

While the Board was able to find that the hardship alleged was not self-imposed, little supporting evidence exists for this conclusion. Petitioner has owned and operated this site for 29 years. While it is true the Board's Solid Waste Rules have been in effect for only three years, the Department of Public Health had almost identical final cover requirements in existence many years before the adoption of our Rules. Thus, even though the Petitioner seems to be presently making a belated effort to comply, no satisfactory explanation is given why the final cover was not timely applied in accordance with the regulations. Without such an explanation, the petition appears to be fatally defective. While the substantial attempts to comply presently undertaken by Petitioner would carry some weight if presented in mitigation in an enforcement proceeding, these belated efforts are entitled to little weight in a variance proceeding.


James L. Young

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 24th day of September, 1976.


Christan L. Moffett, Clerk
Illinois Pollution Control Board