

ILLINOIS POLLUTION CONTROL BOARD  
February 11, 1976

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 75-391  
 )  
 )  
 MACON COUNTY LANDFILL CORPORATION, )  
 a Delaware Corporation, )  
 )  
 Respondent. )

Mr. Fredric Benson, Assistant Attorney General, appeared for the Complainant;  
Mr. Norman J. Fombelle, Attorney, appeared for the Respondent.

DISSENTING OPINION (by Mr. Goodman):

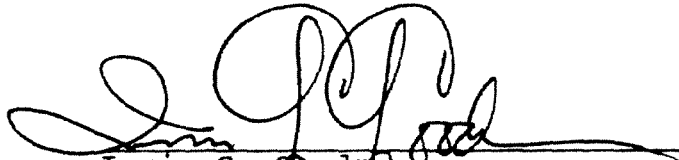
The Board issued its Opinion and Order in PCB 75-391 today, wherein a Stipulation and Proposed Settlement was accepted by a majority of the Board members. In this stipulation, Macon County Landfill Corporation (Macon) admitted to all the violations alleged in the Complaint filed October 10, 1975, by the Environmental Protection Agency (Agency). The Agency's Complaint records no less than 263 specific dates of violation of 23 different rules and regulations and 4 specific sections of the Environmental Protection Act (Act). Indeed the list of violations is so lengthy that we might better list the rules and regulations which Macon did not violate, but in the interest of brevity I will list neither.

The subjects of the admitted violations include, but are not limited to, the following: operating without a permit, open dumping of garbage, burning of refuse, inadequate fencing, inadequate cover, inadequate vector control, discharge of liquid or hazardous material, and inadequate leachate control. This landfill has been in operation since at least July of 1970, and is located adjacent to the north bank of the Sangamon River. In the face of this tremendous mass of violations which range over a time span of 5 years and whose location is, at best, highly suspect from an environmental standpoint, the Agency

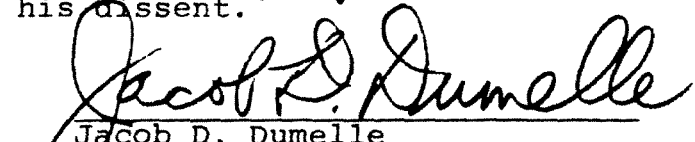
and Macon would have us believe that a \$1200.00 fine is sufficient to protect the permit program and to deter other landfill operators from functioning in a like manner. Based upon only the admitted violations, a maximum penalty of \$516,000.00 is indicated in this case. The stipulated penalty amounts to some two tenths of one percent of this potential maximum fine.

The record in this case consists of the very lengthy complaint and the stipulation which proposes, as mitigation against the admitted violations, an expenditure by Macon of approximately \$63,000.00, roughly 2 months prior to the filing of the Complaint. From the record before us it would appear that Macon was 5 years late in their remedial efforts rather than 2 months early. In any event, the record is too sparse to make an intelligent decision as to whether the mitigation justifies so low a penalty in the face of the gross violations admitted by Macon. It is my opinion that the stipulation should have been returned to the parties and the matter set for hearing on the merits of the Complaint. It appears from the facts before the Board that Macon has been allowed to operate a potentially very dangerous landfill in flagrant violation of the Board's Rules and Regulations and the Act for the grand total of \$240.00 per year. It is my opinion that cases of this nature serve to encourage violations of, rather than compliance with, the Board's Regulations.

I must, therefore, respectfully dissent from the majority opinion issued in this case.

  
Irvin G. Goodman

I join with Mr. Goodman in his dissent.

  
Jacob D. Dumelle

I Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 15<sup>th</sup> day of March, 1976.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board