

ILLINOIS POLLUTION CONTROL BOARD
June 20, 1974

CITIZENS FOR A BETTER ENVIRONMENT,)
An Illinois Not-For-Profit Corp.,)
Complainant,)
v.)
EVERETT J. LaVOIE, individually)
and d/b/a LaVoie Sanitary Service,)
Respondent.)

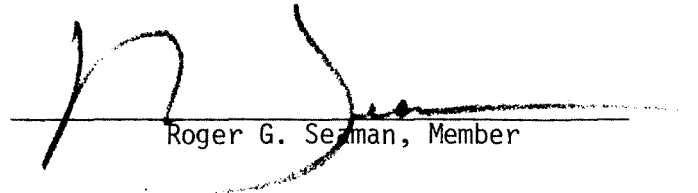
PCB 73-507

CONCURRING OPINION (by Mr. Seaman):

I am in agreement with the substantive findings of the majority; the numerous violations found are clear. However, certain language in the Opinion and Order adopted by the majority is disturbing.

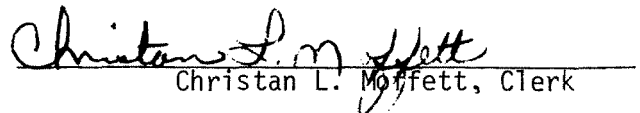
In the final paragraph on page three of the Opinion and Order are listed certain facts and allegations which appear to have been regarded as mitigating circumstances. For example, "Respondent stated that he was forced to dump refuse at his site because of the unavailability of other landfills in the county," and "Respondent acknowledged that he had received notice of possible violations from the EPA at various times, but argued that since they hadn't closed him down, he thought he was not violating the law." Suffice to say that statements of this kind appear to be more in the nature of aggravation than mitigation. This is particularly true when considered in the context of a specific Board finding that Respondent's violations were willful and of long standing.

Finally, I feel that the Record as a whole would justify a penalty of at least \$2,000.00, rather than the \$500.00 assessed in the majority Opinion and Order.



Roger G. Seaman, Member

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Concurring Opinion was submitted on the 24th day of June, 1974.



Christan L. Moffett, Clerk