

ILLINOIS POLLUTION CONTROL BOARD
February 4, 1988

IN THE MATTER OF:)
)
PERMIT REQUIREMENT FOR OWNERS) R84-17
AND OPERATORS OF CLASS I AND) Docket A
CLASS II LANDFILLS AND FOR) Docket B
GENERATORS AND HAULERS OF) Docket C
SPECIAL WASTE) Docket D

INTERIM ORDER OF THE BOARD (by J. Anderson):

By Order of February 19, 1987, the Board scheduled the closing of Dockets A, B, & C in this matter. The Board further directed its Scientific/Technical Section to prepare its own recommendations.

The Order went on to provide that:

During the process of compilation of the report and recommendations, it is anticipated that STS staff will be consulting, particularly with staff attorneys, concerning matters of form and procedure. However, consistent with the Board's "Protocols Of Operation For the Scientific/Technical Section", RES 86-1, January 23, 1986, given the Board's intention of utilizing STS staff to provide substantive testimony, such "person(s) shall be considered to be exterior to the Board and communications between the Board and the STS person(s) on all matters related to the proceeding in question shall be subject to ex parte restrictions, as prescribed in 35 Ill. Adm. Code 101.121."

The purpose of this action was to allow the STS to engage in the type of informal information gathering process from which the Board is precluded, while at the same time protecting the Board's ability to judge the merits of the STS and other proposals on the basis of the public record.

The regulatory recommendations, proposal and background report filed pursuant thereto have been the subject of several hearings, at which the STS presented the technical justification for its proposal. The post-hearing comment period has been closed since December 30, 1987.

The STS has filed a revised proposal and background document incorporating changes suggested at hearing and in comments which, in its view, are meritorious.

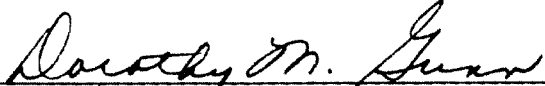
The Board has been deliberating the STS revised proposal, as well as the records in Docket A, B, & C since January 21, 1988. The Board has limited its discussions with the STS consistent with the February 19, 1987, Order and the Board's Protocols. The Board has found that in order to fully and expeditiously deliberate these matters it is necessary to informally consult with STS staff concerning the technical details in the voluminous R84-17 record.

As the bases for and comments concerning the STS proposal are a matter of public record, the Board now feels that it may, without prejudice to the integrity of its process, terminate its "arm's length" dealing with STS staff. Accordingly, as of this date, the STS staff will no longer be considered "exterior" to the Board within the meaning of the Protocols. STS staff is directed to resume communications with the Board in the usual Board/staff relationship. The ex parte constraints of 35 Ill. Adm. Code 101.121(b) shall apply to STS communications with persons other than Board Members and staff.

IT IS SO ORDERED.

J. D. Dumelle abstains.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 4th day of February, 1988, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board