

ILLINOIS POLLUTION CONTROL BOARD  
July 13, 1989

IN THE MATTER OF: )  
 )  
PIELET BROTHERS' TRADING INC., ) AC 88-51, Docket A and B  
an Illinois Corporation, ) (IEPA No. 8983-AC)  
 )  
Respondent. )

CONCURRING OPINION (by J.D. Dumelle):

The important issue here of whether or not the landfill permit had issued by operation of law is a legally complex one.

My concurrence is based upon the belief that an Administrative Citation case is not the correct forum for such a complicated issue.

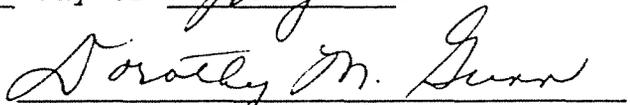
The Illinois Environmental Protection Agency when inspecting these premises in the years since April 1983 should long ago have brought an enforcement action for alleged lack of permit. Thus that major issue could have been thoroughly joined as far back as 1983.

It would be expected that all landfills which are regularly inspected would have their current permits on file in the appropriate regional office. Any type of routine check of the files by an inspector should have revealed that no formally approved permit existed. At that time, say mid-1983, an enforcement action should have commenced.

Litigation almost 6 years later raises problems of recollection and employee turnover.

  
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Jacob D. Dumelle, Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was submitted on the 14<sup>th</sup> day of July.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board