

ILLINOIS POLLUTION CONTROL BOARD  
June 21, 1971

Environmental Protection Agency )  
 )  
 v. ) #PCB 71-29  
 )  
Sauget and Company )  
 )  
Dissenting Opinion (by Mr. Dumelle)

The majority opinion, adopted May 26, 1971 by a 3-1 vote finds Sauget and Company guilty of (a) open dumping and lack of daily cover on refuse for a period of at least 90 days, (b) use of improper cover material (cinders), (c) open burning on December 1, 1970, (d) lack of posted hours of operation on March 22, 1971, (e) lack of portable fencing on three occasions, (f) failure to spread and compact refuse on two occasions, (g) dumping of liquid wastes in the landfill, and (h) hand sorting of refuse.

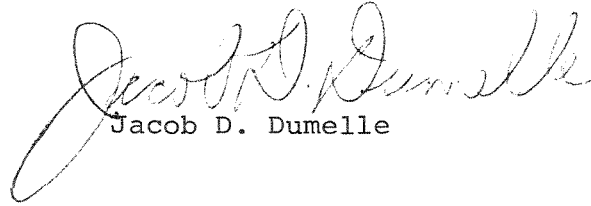
I agree with these findings. I do not agree with the penalty of \$1,000. which was imposed by the majority which in my opinion is miniscule. The violations found were after November 30, 1970 and thus a maximum penalty of \$10,000 for violating the Environmental Protection Act on each of the eight types of violations could be assessed (\$80,000.) plus a maximum of \$1,000. for each day of any type of violation (\$100,000) for a total of \$180,000.

In my opinion, the \$1000. fine should have been of a greater magnitude, at least \$5,000. and perhaps more. Paul Sauget testified that he had operated the landfill for a period of 18 or 19 years and at other sites before that (R.153). He revealed that he knew of the existence of the "rule book" (R.170). The rules and regulations were not something newly enacted but, had been in force since April 1966 or 4-1/2 years before the violations were proven.

Mr. Sauget thus is an experienced landfill operator with some two decades in the business and well aware of the rules. He then was knowingly violating these rules and in fact did admit to certain violations (R.157,158,160,169). A penalty of only \$1,000 is much too light in these circumstances.

The majority opinion cites the \$1500 fines levied in the EPA v. Eli Amigoni, PCB 70-15 and in EPA v. R.H. Charlett, PCB 70-17 where prior warnings were given. In my opinion, substantiating a higher fine only on prior warning grounds is falacious. The issuance of the rules 4-1/2 years previous to the violations is ample warning to a fulltime landfill operator. One is not allowed to commit murder twice to be found guilty once.

The Board should look at the reasons for a penalty. If the penalty is to deter, then it should be a substantial one when guilt is shown and economic ability to pay is present. Otherwise the Board's penalties will become "licenses to pollute".



Jacob D. Dumelle