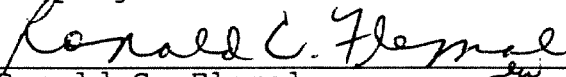


ILLINOIS POLLUTION CONTROL BOARD
April 11, 1991

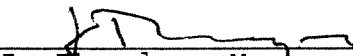
FRANK WHITLOCK, PATRICIA)
WHITLOCK, JANET BERGMAN,)
MARVIN SAVAGE, SHIRLEY SAVAGE,)
Individually and in Their)
Capacity as Representatives)
of an Organization Known as)
CONCERNED CITIZENS AGAINST)
LANDFILLS,)
)
Petitioners,)
)
v.) PCB 90-231
) (Landfill Siting)
)
MONTGOMERY COUNTY BOARD OF)
SUPERVISORS, ROBERT BISHOP,)
and ARMINDA BISHOP,)
)
Respondents.)

CONCURRING OPINION (R.C. Flemal and J. Theodore Meyer):

Although we agree with the fact outcome reached in this case, we wish to concur in the majority opinion in this case. The Appellate Court's strict construction of the notice requirements under Section 39.2(b) of the Act has resulted in decisions by the Board and the Courts in regional pollution control facilities (RPCF) siting appeals being based on procedural grounds. These cases are decided without reaching the merits of the case. Once jurisdiction is found to be lacking, the local board's decision is vacated. Therefore, the RPCF siting process must begin again. We feel that judicial economy would be better served by a less strict construction which would allow the Board to view the facts of a case to determine if prejudice has occurred.

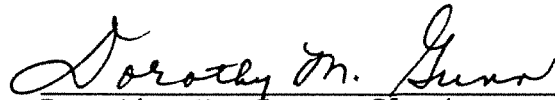


Ronald C. Flemal



J. Theodore Meyer

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was submitted on the 16th day of April, 1991.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board