ILLINOIS POLLUTION CONTROL BOARD
August 5, 1982

WASTE MANAGEMENT OF ILLINOIS, INC., a Delaware corporation, Petitioner,	)	
v.	)	PCB 82-55
BOARD OF SUPERVISORS OF TAZEWELL COUNTY, Respondent.	)	

RICHARD V. HOUPT, PEDERSEN & HOUPT, AND THOMAS A. VOLINI, WASTE MANAGEMENT, INC., APPEARED FOR PETITIONER.

G. EDWARD ORR, ATTORNEY, APPEARED FOR RESPONDENT.

CARL F. REARDON, CARL F. REARDON & ASSOCIATES, LTD., APPEARED ON BEHALF OF INTERVENOR, CITY OF EAST PEORIA.

OPINION AND ORDER OF THE BOARD (by I. G. Goodman):

This matter is before the Board upon the April 28, 1982 appeal by Waste Management of Illinois, Inc. (Waste Management) from the decision of the Board of Supervisors of Tazewell County (Tazewell County) denying siting approval, pursuant to Section 39.2[1] of the Environmental Protection Act (Act), for proposed expansion of a solid waste disposal facility known as the Tazewell County Landfill located in an unincorporated area of Tazewell County, Illinois. This appeal, filed pursuant to Section 40.1 of the Act, is a case of first impression before this Board. The Board will therefore address certain procedural issues that have arisen, notwithstanding that they are not determinative of the case. Hearing was held in this matter and the Board has received considerable public comment, including a large number of letters from citizens and a petition purporting to contain 8,722 signatures, both in opposition to the proposed landfill expansion. In addition, the Board has received resolutions by the Northern Tazewell Public Water District, the City of Washington, the Villages of North Pekin, and Morton and Peoria Heights in opposition to the expansion.

[1] References herein reflect the Revisory Act of 1982 (P.A. 82-783) which changed Section 39.1 (as adopted in P.A. 82-682) to Section 39.2.

PROCEDURAL HISTORY BEFORE THIS BOARD

In its Order of April 29, 1982, the Board determined that the County Board was the appropriate party to prepare and file the record below, ordered the record prepared pursuant to certain guidelines contained in that Order and set the matter for public hearing. On May 27, 1982, the Board denied Waste Management's motion to vacate the April 29th Order and in the alternative, establish a briefing schedule and designate a hearing date before the entire Board. In that Order and a subsequent Order dated June 10, 1982, the Board found that a public hearing pursuant to the Board's procedural rules was necessary. In addition, the Board determined that the record would consist of the County public hearing record, documents filed by the parties, and any documents submitted at the Board hearing admissIble under the mandate of Section 40.1 of the Act. The parties were also directed therein to file legal arguments prior to hearing.

On June 28, 1982, the City of East Peoria (East Peoria) filed its Petition for leave to intervene alleging a vital interest in the outcome of the proceedings due to the proximity of the proposed waste disposal facility to East Peoria and its proposed central water supply system. On July 1, 1982, the hearing officer allowed East Peoria to participate in that day's hearing to the extent of cross examination and argument and, at the end of the hearing, granted intervention. (R. 7, 114). However, when the question of presentation of evidence by East Peoria at the hearing arose, the other parties objected and the hearing was adjourned to allow appeal of the hearing officer's decision to the Board. On July 8, 1982, Waste Management filed its motion to exclude additional evidence and to conclude hearing, in which motion Tazewell County joined on July 19, 1982.

On July 21, 1982, the Board found that "East Peoria, having been granted the right to intervene, must accept the proceeding in the same posture as the original parties." Waste Management's motion to conclude hearing was granted and briefs were ordered filed by the parties and the Intervenor no later than July 30, 1982.

On July 22, 1982, East Peoria moved for reconsideration of the Board's July 21, 1982 Order alleging that Waste Management had waived its right to a decision by August 6, 1982 and that the hearing officer had set an additional hearing for August 16, 1982. At a special meeting held July 26, 1982, the Board denied East Peoria's motion, finding that Waste Management's agreement to extend the decision period was a conditional waiver anticipating the possibility that the Board would deny its motion to conclude hearing and therefore could not be considered a true waiver. In addition, the Board deleted a sentence in the July 21, 1982 Order referring to the amount of time remaining in the decision period because it gave undue emphasis to the statutory deadline when the real thrust of that Order was that East Peoria had had sufficient opportunity to challenge the record.

On July 30, 1982, Intervenor, East Peoria, filed a motion for leave to file offers of proof requesting that such offers of proof be made part of the record in order to permit a reviewing court to determine whether the exclusion was improper, and if so, whether prejudicial error had occurred. Although this is an unusual request, the Board shall grant the request to include the offers of proof in this particular case.

As noted above, this is a case of first impression. Therefore, the admissibility of evidence under a Section 40.1 review was uncertain and undefined by the Board at the time of the July 1, 1982 hearing. In fact this uncertainty coupled with the strenuous objections, including a threat to abandon further participation in the hearing, by Waste Management in order to get a prior determination by the Board regarding the evidence proposed by the Intervenor (R. 116), caused the Board's hearing officer to adjourn the hearing sine die. Had that hearing continued or been reconvened, East Peoria's proposed testimony would have been scrutinized for admissibility. Furthermore, it is likely that the hearing officer would have accepted offers of proof pursuant to Procedural Rules 316(f) and general Board policy that its hearing officers accept offers of proof for Board review when unsure of the evidence's admissibility. Fundamental fairness requires that the offers of proof be now accepted from East Peoria, and reviewed by the Board to determine whether they include evidence pertinent to the fundamental fairness of the Tazewell County review or new evidence. The admissibility of the evidence contained in the offers of proof is considered later in this Opinion.

On August 4, 1982 Waste Management filed a reply to the Intervenor's brief and a motion to strike six affidavits, two resolutions and the petition opposing the landfill. The affidavits are included in the Intervenor's Offers of Proof. Waste Management's motion to strike is denied based on the reasons set out above. The motion to strike the resolutions and petition is denied, as contrary to the Board's policy of encouraging public access to its processes.

PROCEDURAL HISTORY BEFORE THE TAZEWELL COUNTY BOARD

As indicated by the record, the history of the proceeding under review is as follows. Waste Management, pursuant to Section 39.2 of the Act, requested siting approval from Tazewell County to expand a solid waste disposal facility at its existing landfill in Tazewell County, Illinois. On February 18, 1982, Tazewell County, after a hearing mandated by the Act, granted the siting approval subject to certain conditions, finding that Waste Management had met its burden of proof on each of the six criteria set forth in Section 39.2(a) of the Act. On February 24, 1982, East Peoria filed a petition with Tazewell County requesting that the previous decision be set aside and that the public hearing be reopened. Tazewell County subsequently set aside its decision

and reopened the public hearing which was held on March 24, 1982 for the limited purpose of addressing East Peoria's petition. On April 19, 1982, Tazewell County denied Waste Management's petition for site location approval finding, inter alia, that a) the facility is not necessary to accommodate disposal needs for waste generated and coming from outside the State of Illinois; b) the facility is not so designed, located and proposed to be operated so that the public health, safety and welfare will be protected inasmuch as the applicant is authorized to receive and dispose of special waste; and c) the facility is not so located as to minimize incompatibility with the character of the surrounding area and minimize the effect on the value of surrounding properties in that one residential property immediately adjacent and abutting the subject property exists. In addition, recognizing the possiblity of reversal of its decision by the Board, Tazewell County indicated its intention that certain enumerated conditions be imposed upon such reversal.

THE APPLICABLE STATUTES

Public Act 82-682 requires Tazewell County to approve the suitability of a site location for a new regional pollution control facility only in accordance with the following criteria:

1. The facility is necessary to accommodate the waste needs of the area it is intended to serve;

2. The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

3. The facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;

4. The facility is located outside the boundary of the 100-year flood plain as determined by the Illinois Department of Transportation, or the site is floodproofed to meet the standards and requirements of the Illinois Department of Transportation and is approved by that department;

5. The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents; and

6. The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows.

That same Public Act contains certain requirements concerning notice, public hearing, decisions including such conditions as may be reasonable and necessary to accomplish the purpose of the Section, and certain other limitations. Section 40.1 of the Act

contains provisions for appeal of the local authority's decision to the Board citing Sections 32 and 33(a) of the Act. That same Section calls for the Board to include in its consideration the written decision and its reasoning, transcribed record of the hearing, and the fundamental fairness of the procedures used by Tazewell County in reaching that decision. The Section also states ". . . the burden of proof shall be on the petitioner; however, no new or additional evidence in support of or in opposition to any finding, order, determination, or decision of the appropriate County board or governing body of the municipality shall be heard by the Board."

PROCEDURAL ISSUES

The Board shall first consider the procedural issues presented by the Parties and the Intervenor in order to narrow the focus on the substantive issues presented herein. Intervenor East Peoria complains that notice by Waste Management of its Petition to Tazewell County was defective. The alleged defects include failure to indicate the possibility of acceptance of special wastes in its permit application, failure to state the probable life of proposed activity, failure to state the size of the development, and failure to indicate the date when the request for site approval would be submitted to the County Board.

The alleged failure to indicate the possible acceptance of special wastes concerns a misunderstanding with regard to Waste Management's application to the Illinois Environmental Protection Agency for a permit to develop and operate a landfill site which was included as an Exhibit in the Petition to Tazewell County. Using a form application, which contained boxes to be checked off indicating which type of permit is being applied for, Waste Management checked boxes labeled "develop a site" and "operate a site", and not the box labeled "to receive special waste". Since special waste permits cannot be requested until the landfill is in operation, the special waste section could not have been checked off on the development permit application even if Waste Management was anticipating the acceptance of special waste. The Board notes that the statute does not require that permit applications be submitted to the local authority.

In addition, there is no question that acceptance of special wastes was considered by Tazewell County at both its hearings. The Petition as announced by the Board Chairman, was for "...non-hazardous household, industrial and special wastes . . ." (February 18, 1982 hearing, p. 4). Furthermore, the record of both hearings incidate that the public participants were not at any time surprised that approval sought by the Petition involved

a site to handle non-hazardous special waste.[2] The Board finds that the alleged procedural defect with respect to this issue, if true, resulted in no prejudice and has been cured. The Board notes that although the statute does not require that the notice for a public hearing include a description of the waste under consideration, in the interests of fundamental fairness, such notice should be as precise as possible and that an applicant, in conjunction with the local authority, issuing an incomplete or confusing notice does so at its peril.

After review of the Tazewell County record, the Board finds that the other alleged notice deficiencies, even if true, are not fatal to the Petition. Certainly East Peoria cannot claim prejudice since each and every one of the alleged defects was considered in depth at the February 18, 1982 hearing in which East Peoria participated. To allow a claim of defective notice at this late date, especially since prejudice to any person is neither alleged nor apparent, would result in the entire record before the County Board counting for naught, would not produce a superior subsequent record and would therefore be a tremendous waste of the taxpayer's money. The Board therefore rejects East Peoria's claim of defective notice.

Waste Management alleges that Tazewell County lacked authority or basis to reopen the public hearing after having rendered a decision at the February 18, 1982 hearing. Tazewell County, pursuant to a Petition alleging misstatements of a Waste Management witness at the first hearing concerning the geographic area to be served, vacated its decision to grant siting approval and reopened the public hearing for further testimony. This was done on February 24, 1982, only six days subsequent to the first decision. Tazewell County in this case properly exercised its power to review its own decision and, concluding that its initial decision may have been incorrect and that it needed additional information, to vacate the initial decision and call for a continuation of the public hearing. Although certainly disconcerting to Waste Management, the prejudice to the public by an incorrect decision by Tazewell County transcends any potential prejudice to Waste Management in having an extended public hearing on its Petition. Whether or not this action resulted in a correct or fair decision will be discussed later. The Board will therefore consider the entire record, as presented by Tazewell County, in its consideration of Tazewell County's final order rendered on March 24, 1982.

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[2] "Special Waste" is defined in Section 3 of the Environmental Protection Act, Ill. Rev. Stat. 1981, Ch. 111½, pars. 1003, as "any industrial process waste, pollution control waste or hazardous waste". All three subcategories of "special waste" are also defined in Section 3. Yet, Section 3(x)(3), as amended by P.A. 82-682, distinguishes hazardous wastes from special wastes. Acknowledging this distinction, the Board will use the terms "non-hazardous special wastes" and "hazardous special wastes" throughout this Opinion.

SUBSTANTIVE ISSUES

Some of Tazewell County's substantive findings are uncontested. It was found that the facility was located outside the boundary of the 100-year flood plain as determined by the Illinois Department of Transportation and that the traffic patterns to and from the facility are so designed as to minimize the impact on existing traffic flows.

With respect to the requirement that the facility be demonstrated to be located so as to minimize the effect on the value of surrounding property, Tazewell County found that a landfill at the site proposed would not be so located due to the effect on the value of the property of a Mr. Ricky D. Dodd, who is the only residential property owner immediately adjacent to and abutting the subject property. It is the Board's opinion that this is the sort of situation the Legislature had in mind when it created the criteria pertaining to the compatibility with and effect on the value of the surrounding property. Ill. Rev. Stat. 1981, Ch 111½, par. 39.2(a)(3).

At the County's February 18, 1982 hearing, Waste Management presented a real estate appraisor who, after evaluating every parcel of land adjacent or in proximity to the Waste Management and other landfill sites in the surrounding area, found no instance of a downward movement or negative effect in the value of the properties (R. 140, 145). However, Waste Management acknowledged the Dodd situation in the record and agreed to purchase Mr. Dodd's property at its equitable valuation. Indeed, in the initial granting of site approval on February 18, 1982, Tazewell County conditioned the approval with such a purchase of Mr. Dodd's property. The Board, therefore, finds that compensation by Waste Management of the subject property would have resulted in an affirmative decision by Tazewell County on that issue.

With regard to the issue of whether or not the plan of operation for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents, Tazewell County found in the affirmative so long as no hazardous waste, as that material is defined by the federal government, is accepted at the facility. Waste Management has stated its agreement with that condition (Tazewell County Record, February 18, 1982, 28, 245).

Notwithstanding this agreement, the Board finds that the issue of hazardous wastes was not before Tazewell County at this time or in this Petition and the County does not need to condition its finding with a disclaimer prohibiting disposition of hazardous wastes. It is obvious that review of the public health, safety and welfare impacts of a site due to its design, location, and proposed operation of the facility and the danger to the surrounding area from fire, spills or other operational accidents can only be conducted by a county board with an awareness of the potential use of a landfill: proposed receipt of municipal,

non-hazardous special or hazardous special wastes. The Board, therefore, finds that siting approval by a county board for a proposed landfill constitutes approval of the landfill for deposition of wastes classified as non-hazardous special or hazardous special by the federal government or the State of Illinois only as specifically stated in the approval, and not otherwise. (See P.A. 82-682). A use which is not specifically approved by the local authority must be considered denied, and therefore appealable to the Board, which will then review the actual decision record. If it were otherwise, all petitions for landfill siting approval would necessarily have to be reviewed at a level consistent with the deposition of hazardous special wastes. Therefore, the County did not need the condition prohibiting deposition of "hazardous wastes" when it found that the plan of operations for this facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents. The Board finds that in deleting this condition as unnecessary, approval was given by the Tazewell County Board to the operational plan as related to disposal of non-hazardous special wastes.

Tazewell County found that the facility is necessary to accommodate waste needs of the area it is intended to serve but is not necessary to accommodate waste generated and coming from outside the State of Illinois. Even apart from probable conflicts with the Commerce Clause of the Constitution of the United States, Public Act 82-682 simply does not give Tazewell County the authority to deny approval solely based on its desire to prohibit out of state waste. It is clear from the record that the primary area that Waste Management intends to serve with the proposed expansion accommodates that area's needs. In addition, there is no indication that there is any intention to serve areas outside the State. Possible acceptance of some wastes generated outside the surrounding areas would not constitute authority for Tazewell County to define that the facility as not necessary to accommodate the waste needs of the area it is intended to serve. In considering the record and Tazewell County's own statements concerning the issue, the Board finds the facility is necessary to accommodate the waste needs of the area it is intended to serve.

Having reviewed five of the six criteria of review set forth in Public Act 82-682, the Board now turns to the sixth and final issue which is by far the most hotly contested and difficult. This issue is whether "the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected". (Ill. Rev. Stat. 1979, Ch. 111½, par. 39.2). Tazewell County found, with respect to this issue, that the facility is not so designed, located and proposed to be operated so that the public health, safety and welfare will be protected inasmuch as the applicant intends to receive and dispose of special waste. In addition, Tazewell County found that even absent the special waste, certain conditions would have to be imposed in order to make an affirmative finding. (It should be noted that in its written disapproval of March 24, 1982, the County did

not distinghish between the hazardous and non-hazardous special wastes.) These conditions were contained in subparagraphs a through g of paragraph 2 on page 4 of Tazewell County's decision of April 19, 1982. Subparagraphs a through f concern the technical aspects and procedures in the design and construction of the landfill itself, and subparagraph g calls for a $20 million certificate of insurance to be provided by Waste Management to insure against non-sudden occurrence of pollution or other adverse environmental impacts.

Waste Management argues that Tazewell County is without statutory authority or jurisdiction to deny site location approval on the basis of the acceptance or non-acceptance of special waste. The Board disagrees. Section 39.2 of the Act specifically requires approval by local authorities for the site location suitability for each new regional pollution control facility. Under Section 3(x) of the Act, Definitions, "regional pollution control facility" and more specifically "new regional pollution control facility" is defined, inter alia, as "a permitted regional pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste." This definition of regional pollution control facility was added by the same Act that created Section 39.2. It seems clear that the Legislature intended local review to include not only review of the site's suitability but, in addition, intended that such review be made reflecting the particular level of waste to be stored in the facility. It is reasonable that a local authority might review, for instance, the condition of access roads and the surrounding residences at quite a different level of concern for a landfill proposed to accept hazardous special waste than one proposed to accept only municipal, landscape, and demolition waste. The same argument would apply for non-hazardous special waste. Clearly the right to review the suitability of a permitted site upon the first application for a special or hazardous waste permit would include the right to review a proposed site with respect to whether non-hazardous special or hazardous special wastes are proposed to be accepted.

Section 3(x)(3) of the Act, as previously quoted, calls for approval by local authorities when a facility requests a permit to handle special or hazardous wastes for the first time. Since special and hazardous wastes are defined groups, the Board interprets that section to require approval by local authorities only when it is proposed to accept a special or hazardous waste in a facility that has never handled such waste in any form previously. This means that the local authorities would have a chance to review the site with respect to the special or hazardous wastes only once and not each time a new special or hazardous waste stream permit was requested. The logic of this interpretation seems obvious since to allow the local authorities review each new waste stream would virtually paralyze the system with respect to special and hazardous wastes and would anticipate the ability of the local authorities to differentiate between individual types of non-hazardous special and hazardous special wastes, a highly

detailed and technical consideration. The Board has previously held that siting approval by a local authority for a proposed landfill does not constitute approval of the landfill for deposition of any waste classified as non-hazardous special or hazardous special wastes by the federal government or the State of Illinois unless the decision specifically states otherwise. It follows that siting approval for a proposed landfill granted pursuant to a public hearing which considered the non-hazardous special or hazardous special nature of materials proposed to be accepted and which approval specifically states that it is an approval for such acceptance will be sufficient as site approval of a new regional pollution control facility as defined in Section 3(x)(3) of the Act.

Having found that Tazewell County has the right to review the proposed site with respect to non-hazardous special wastes, the Board finds that the record does not support Tazewell County's finding that the facility is not so designed, located and proposed to be operated so the public health, safety and welfare be protected inasmuch as the applicant is authorized to receive and dispose of non-hazardous special wastes. It is clear from the record that Tazewell County came to this conclusion due to concern that the proposed landfill might leak, and that the non-hazardous special wastes might find their way down through the intervening layer of clay and into the Sankoty Aquifer, and eventually affect local drinking water supplies which, for the most part, are obtained from that aquifer.

This situation concerns the design and construction of the landfill and the underlying geology and hydrology, rather than the site itself. These highly technical issues have historically been the purview of the Illinois Environmental Protection Agency (Agency) under the Act. When the Legislature enacted Public Act 82-682, its intent was to give local authorities the power to review the effect of the proposed landfill on the immediate area with regard to the six expressed criteria. There was no intent to give the local authorities concurrent jurisdiction with the Agency to review highly technical details of the landfill design and construction.

The legislative history of the statute reveals the separation of review criteria between the local authorities and the Agency. During debate in the House of Representatives on June 17, 1981, sponsor Representative Breslin stated, after reviewing the criteria to be applied by the local authorities, "They are not to make technical decisions as to the suitability of the site, rather that power still lies in the Environmental Protection Agency." The local authorities may address the health and welfare of its citizens with regard to the general location of the site and effects such as runoff and flooding, road litter, potential noise, disposition of landfill gas, and especially final configuration of the site with respect to ultimate potential uses.

Waste Management presented a number of highly qualified individuals who testified concerning the six criteria to be considered by Tazewell County. The evidence was convincing and for the most part unrebutted with regard to the areas of review that are reserved to the local authorities by the Act. Indeed, at the first hearing held on February 18, 1982, Tazewell County was convinced of the suitability of the site, as witness its initial decision. The Board therefore finds that based on the record before Tazewell County, the negative finding concerning the public's health, safety and welfare is not warranted.

Subparagraphs a through f of Conditions Two of the Tazewell County decision concerning public health, safety and welfare address highly technical issues and are beyond the authority of Tazewell County's review. Subparagraph g of the same condition concerns a $20 million certificate of insurance against non-sudden occurrence of pollution or other adverse environmental impacts. However, how this figure was determined is not in the record. Nevertheless, Waste Management has offered to provide such certificate of insurance. (Tazewell County Board, March 24, 1982, p. 75.)

CONCLUSIONS

Considering the foregoing, the Board finds that the facility siting approval should have been granted by Tazewell County and will so rule. Since Tazewell County has the authority to impose conditions on such approval and since the record in this case contains conditions Tazewell County would like to have imposed, the Board will impose such of those conditions as are found to be reasonable or agreed to by Waste Management. Specifically, the Board will condition the approval on the purchase of the Dodd property and purchase of insurance as agreed to by Tazewell County and Waste Management at the February 24, and March 29, 1982 public hearings.

There is yet another collateral issue to be considered by the Board in this matter. That concerns admission of evidence at the adjudicatory hearing before the Board. Section 40.1 of the Act provides in no uncertain terms that the Board is not to conduct a de novo hearing on appeals of site location suitability decisions. The section states that hearing shall be based exclusively on the record before the County Board and that no new or additional evidence in support or in opposition to the decision of the County Board shall be heard. It calls for the Board to consider the written decision and the reasons for the decision under review, the transcribed record of the hearing, and the fundamental fairness of the procedures used to conduct the hearing. The statute, in effect, causes the hearing before the Board to be basically on the subject of the fundamental fairness of the procedures used in the local authority's hearing. For example, evidence of restricted accessibility to information, lack of opportunity to testify, rejection of evidence, notice problems, and other such issues are

legitimate subjects for the presentation of evidence at the adjudicatory hearing. New or additional evidence in support of or in opposition to the Petition shall not be heard at this hearing. The Board therefore rejects the offers of proof presented in the July 30, 1982 motion of Intervenor East Peoria.

The Board notes with appreciation the involvement of the Intervenor and the citizens of the surrounding communities. Although the final result herein may not reflect the desires of some of the participants, they may be confident that their participation insured a thoughtful and very careful consideration of this matter.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that the site location suitability for expansion of the Waste Management of Illinois, Inc. landfill known as the Tazewell County Landfill located in Tazewell County, Illinois is approved subject to the following conditions:

1. Approval is granted only for municipal waste and non-hazardous special waste.

2. Waste Management of Illinois, Inc. shall purchase, at its equitable evaluation, the property identified as belonging to Mr. Ricky D. Dodd.

3. Waste Management of Illinois, Inc. shall furnish, to the County Board of Tazewell County, Illinois, a certificate of insurance in the amount of $20 million insuring against non-sudden occurrence of pollution or other adverse environmental impacts.

IT IS SO ORDERED.

Board Chairman J. Dumelle dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order of the Board was adopted on the 5th day of August, 1982 by a vote of 4-1.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board