


ILLINOIS POLLUTION CONTROL BOARD  
May 27, 1982


CARGILL, INC., )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) PCB 81-37  
 )  
 ) ILLINOIS ENVIRONMENTAL PROTECTION )  
 ) AGENCY, )  
 )  
 ) Respondent. )

DISSENTING OPINION (by I. Goodman):

Focusing on industrial waste and its definition as the pollutant, the majority of the Board held that since the origin of pollutants contained in Petitioner's discharge to the Fox River could not be traced to Petitioner's industrial process, no NPDES permit was required for its point discharge. The majority reasoned that NPDES permits are only required when pollutants are discharged, and "industrial waste" was the only relevant term contained in the definition of "pollutant." However, "pollutant" as defined in the Act and Chapter 3 also includes the term "chemical waste." The contaminants found in Petitioner's discharge do constitute chemical waste, and as such are pollutants. The nexus between the contaminants and their origin is irrelevant. Rather the control and inventory of pollutants into waters of the State, intended by the NPDES permit program, properly takes precedence. Therefore, I would hold that the contaminants discharged into the Fox River by Petitioner's 24 inch pipe are chemical waste pollutants, and despite the de minimis character, a NPDES permit is required under the Clean Water Act, the Act, and Rule 901 of Chapter 3.

  
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Irvin G. Goodman, Board Member

I, Christan L. Moffett, clerk of the Illinois Pollution Control Board, do hereby certify that the above Dissenting Opinion was filed on the 14<sup>th</sup> day of June, 1982.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board