

POLLUTION CONTROL BOARD
July 15, 1981

ALBURN, INC.,)
)
) Petitioner,)
)
) v.) PCB 80-189
) 80-190
) ILLINOIS ENVIRONMENTAL PROTECTION)
) AGENCY,)
)
) Respondent.)

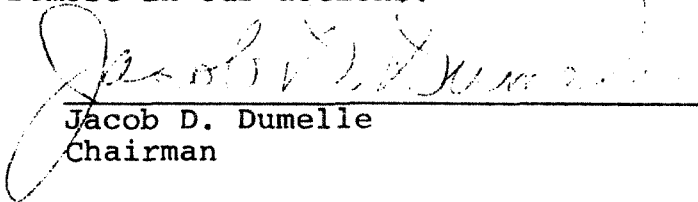
CONCURRING STATEMENT (by J.D. Dumelle):

My concurring vote on the stay was to highlight the Board's dilemma. Alburn states it "is operating the incinerator in an environmentally safe manner". (Response to Motion for Clarification, July 13, 1981, p. 2). On July 9 the Attorney General, speaking for the Agency, told the Board that environmental harm allegations had no place in a permit appeal such as this and properly belonged in an enforcement case.

Thus counsel for the Agency has chosen to remain silent on a major concern of the Board's, namely, "is the stay granted on May 1 and June 10 causing harm to the environment or to the public?"

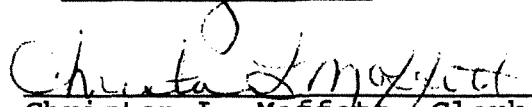
We still do not know. I hope that this case will in fact be quickly heard and certified to the Board for decision. I would urge the Attorney General to seek an injunction promptly in Circuit Court if environmental harm is in fact being caused by the Board's stay or to come back before the Board.

The Board can't deal with silence. It must weigh the equities which are stated. But let us all keep the public health and public interest foremost in our actions.



Jacob D. Dumelle
Chairman

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Statement was filed on the 26th day of July, 1981.



Christan L. Moffett, Clerk
Illinois Pollution Control Board.