

ILLINOIS POLLUTION CONTROL BOARD
April 2, 1984

INDUSTRIAL SALVAGE, INC.,)
)
Petitioner,)
)
v.) PCB 83-173
)
COUNTY BOARD OF MARION)
)
Respondent.)

DISSENTING OPINION (by J. D. Dumelle):

My reason for dissenting on the vote to deny the Motion to Vacate the Order lies in the last sentence in the second paragraph of the majority order.

It reads, "Since Marion did not provide an opportunity to cross-examine by the attorneys (and perhaps by the public) this matter must be remanded."

State's Attorney Matoush's motion filed March 26 states in Paragraph No. 3 that legal counsel for all parties had no objection to the procedural aspects of the September 13, 1983 hearing at the County level and so stated at the Pollution Control Board hearing on February 2, 1984. Mr. Matoush does not give a record citation but he may be referring to p. 32 of the Feb. 2, 1984 transcript.

I feel that the above statement clears the air on the issue of the attorneys not cross-examining witnesses. They evidently chose not to cross-examine and did not object to that procedure. They have a right to do this.

The situation in regard to the public's right to cross-examine is less clear. At no point can I find a statement that they could or could not cross-examine. The record is silent. But, given the hotly contested nature of the proceeding, I feel that someone would have objected (if in fact they were denied cross-examination rights) or would have tried to ask a question.


For these reasons, I dissent.

Respectfully submitted,



Jacob D. Dumelle, Chairman

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 5th day of April, 1984.



Christan L. Moffett, Clerk
Illinois Pollution Control Board