

ILLINOIS POLLUTION CONTROL BOARD  
November 19, 1981

DONALD J. HAMMAN, )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) PCB 80-153  
 )  
 ) ILLINOIS ENVIRONMENTAL PROTECTION )  
 ) AGENCY, )  
 )  
 ) Respondent. )

DISSENTING OPINION ( BY J.D. Dumelle):

Having voted with the majority in the initial Board decision on January 8, 1981 I now dissent. I would uphold the Agency's denial of the permit.

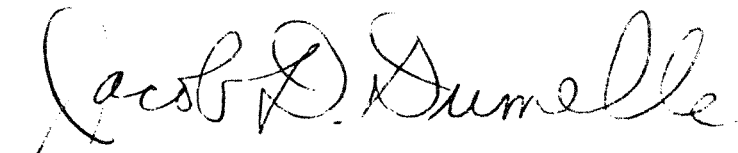
The rule at issue [Rule 316(a)(4)] requires information on land use and population density of the area near the proposed landfill site. This is not a useless rule but was intended to assist the Agency in considering matters normally considered by a local zoning or planning commission. Local zoning, of course, has no force and effect by various court decisions.

The road to the site is, by all testimony, woefully inadequate. Heavy garbage trucks would undoubtedly tear it up rendering it impassable and indeed dangerous to other traffic, especially for school buses.


The majority finds fault with the language of the Agency's denial and terms it an "unlawful delegation of its permitting authority" (Opinion, p. 11). But we must look beyond the words to the intent of the Agency. The intent was to not allow a poor road to become a dangerous road to the public.

The daily danger posed to school buses traveling a deeply rutted road persuades me to protect the public by upholding the Agency permit denial.

Respectfully submitted,

  
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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 25<sup>th</sup> day of November, 1981.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board