

ILLINOIS POLLUTION CONTROL BOARD
March 21, 1984

In The Matter of:

PERMIT AND INSPECTION FEES)
FOR HAZARDOUS WASTE) R84-7
DISPOSAL FACILITIES (FINAL RULE))

DISSENTING OPINION (by J. D. Dumelle):

My reasons for dissenting in this proceeding are largely those outlined in my Dissenting Opinion of February 29, 1984 in R84-1 which was the Emergency Rule of identical language.

The rule is much too detailed, has largely unsupported criteria, sets a poor precedent for all future permit fee determinations (water or air) and misses the intent of the statute. The statute would set the fees "to adequately cover all costs to the State . . ." (emphasis added).

The Land Pollution Control Division is presently funded with 75% Federal money and 25% State funds. The proposed rule in R84-7 would levy 100% State funds or three times beyond actual present costs.

An argument can be made that P.A. 83-0938 is unconstitutional to the extent that it makes IEPA's waste inspectional functions the creature of this Board's action on permit fees. That would be an invasion of the appropriation process reserved to the General Assembly.

The provision for "billable inspections" certainly makes this argument plausible; namely that the fees are tied to actual IEPA work performed.

For these reasons, I dissent.



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 21st day of March, 1984.



Christan L. Moffett, Clerk
Illinois Pollution Control Board