

ILLINOIS POLLUTION CONTROL BOARD

November 20, 1997

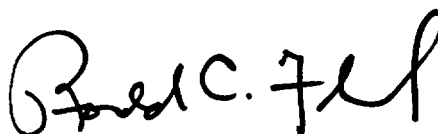
GEORGE CASANAVE, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 97-84  
 ) (Enforcement - Land - Citizen)  
 AMOCO OIL COMPANY, )  
 )  
 Respondent. )

CONCURRING OPINION (by R.C. Flemal):

I agree with the majority that this matter should be dismissed. However, I believe that there is a different, and overriding reason for dismissal. That reason is the Board does not have authority to grant the requested relief, and hence this matter should be dismissed as frivolous.

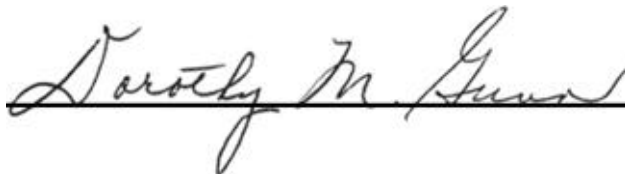
I do not believe that jurisdiction for the Board to hear private cost-recovery actions is explicit in the Environmental Protection Act, as it must be for the Board to exercise jurisdiction. Moreover, I am persuaded that the recent decision of the 1st District in *NDB Bank and Klairmont Enterprises, Inc. v. Krueger Ringier, Inc.* (No. 1-95-2897, 1997 Ill. App. LEXIS 700 (1st Dist. September 30, 1997)) compels the Board to retreat from its prior position on this issue.

For this reason, I concur.



Ronald C. Flemal  
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above concurring opinion was submitted on the 21st day of November 1997.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board