

ILLINOIS POLLUTION CONTROL BOARD
August 30, 1990

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 89-224 Docket A & B
)	(IEPA no. 9951-AC)
)	(Administrative Citation)
JOHN VANDER,)	
)	
Respondent.)	

DISSENTING OPINION (by J.D. Dumelle)

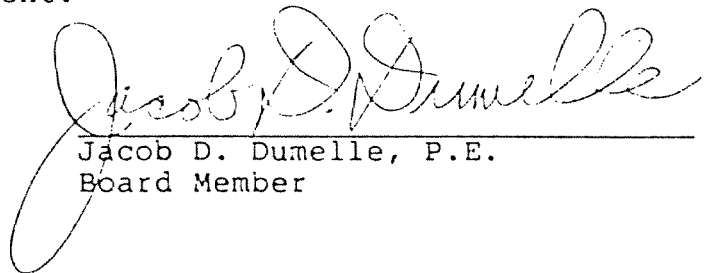
The majority found that "open dumping" did not occur in this case. I disagree. The definition speaks of "the consolidation of refuse from one or more sources...". The record clearly shows that the bulldozer consolidated the debris into a pile for burning. (R. 14). Once that consolidation occurred then open dumping had happened.

To argue, as the majority does that somehow all demolition could be construed as open dumping is to set up a straw man. Obviously a demolished building may have to be completely leveled before removal can be safely done. The question is "What is the action after demolition?" If it is removal then no violation exists. If it is burning or abandonment then a violation exists.

Finally, the record speaks of the burning of eight, not two buildings. (R. 8, 16). It would appear that six other buildings were illegally burned at this location but not cited in the administrative citation. The record also shows a previous open burning citation to Mr. Vander (R. 19). Thus he was well aware of the Illinois prohibition on the burning of buildings.

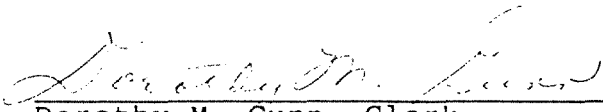
The majority has here weakened the use of the administrative citation in all demolition cases where burning occurs.

For these reasons, I dissent.



Jacob D. Dumelle, P.E.
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify the above Dissenting Opinion was submitted on the 4th day of September, 1990.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board