ILLINOIS POLLUTION CONTROL BOARD
September 15, 1982

ILLINOIS ENVIRONMENTAL PROTECTION   )
AGENCY,   )
)
                    Complainant,   )
)
              v.   )   PCB 81-182
)
CAPITAL CITY LAND, INC., an   )
Illinois corporation,   )
MERLE BUERKETT, TOWN AND COUNTRY   )
BANK OF SPRINGFIELD, TRUSTEE,   )
an Illinois Bank, BUNN PARK   )
INDUSTRIES, INC., a dissolved   )
Illinois corporation, ESTATE OF   )
MAX RISEMAN, deceased,   )
MONIKA U. M. WEINER, RICHARD WEINER,   )
THOMAS FLATTERY, ERNIE L. SCHMIDT,   )
JOHN DOE, JANE ROE, ED EVANS, JOHN   )
HOLTMAN, CLARENCE "BUD" GARNER and   )
NANCY DiMARTINO,   )
)
                    Respondents.   )

CONCURRING OPINION (by D.B. Anderson and J.D. Dumelle):

    We concur in this matter in order to resolve a complex
proceeding involving a dissolved corporation, an estate, un-
known shareholders, a land trust and others.

    Our concern lies in the fact that one of the respondents
is Merle Buerkett. The majority opinion cites two previous cases
in which Mr. Buerkett has been judged guilty in 1971 and 1978
by this Board of improper waste disposal operations.

    The stipulation is silent about Mr. Buerkett's past conduct.
And since the $3,000 penalty stipulated to here is to be appor-
tioned jointly and severally it seems obvious that this prior
conduct was not considered in setting that penalty as regards
Mr. Buerkett.

    Penalties set by the Board are "to aid in the enforcement
of the Act". Repeated violations of rules intended to protect
the public from the dangers of improper waste disposal ought
to bring much higher penalties than an initial violation. This
appears not to have been done in negotiating this stipulated
penalty. The Agency should search its own records before

negotiating to find all repeaters. Since a repeater has obviously not been deterred the newer penalties should be many times the first ones for similar offenses.

Donald B. Anderson,
Board Member

Jacob D. Dumelle,
Chairman

    I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was filed on the _/3ᵗʰ_ day of _October_ , 1982.

Christan L. Moffett, Clerk
Illinois Pollution Control Board