

ILLINOIS POLLUTION CONTROL BOARD
April 7, 1983

WASTE MANAGEMENT OF ILLINOIS, INC.)
)
) Petitioner,)
)
) v.)
)
) COUNTY BOARD OF WILL COUNTY,) PCB 82-141
)
) Respondents,)
)
) and)
)
) BOARD OF TRUSTEES OF JOLIET TOWNSHIP,)
) VILLAGE OF CHANNAHON, LESLEY R. MARR,)
) NORMA T. ROURKE, GISELA TOPOLSKI, AND)
) MARTHA C. LEMBCKE,)
)
) Intervenors.)

CONCURRING OPINION (by J. D. Dumelle):

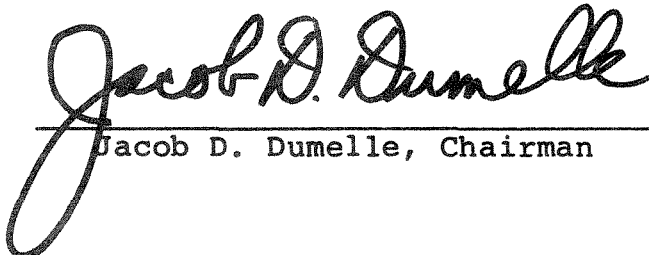
While I fully agree that the applicant has not shown a need for the expansion of the landfill (Criterion No. 1) I do not agree that Public Act 82-682 does not mean what it says in plain English in Criterion No. 2.

Criterion No. 2 reads as follows:

"the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;"


That criterion, in plain English, does not restrict counties and cities from considering subsurface natural conditions such as geology and hydrology and designs such as liners and leachate drains and monitoring wells. This issue, the meaning and intent of Criterion No. 2, has been joined in the appeal of this Board's initial determination on this matter in Waste Management of Illinois, Inc. v. Tazewell County, PCB 82-55, August 5, 1982. An Appellate Court decision is expected shortly. A new argument has now been advanced by the Board majority for not following the plain language of Criterion No. 2. That argument advances hypothetical conflicts with Federal regulations issued under the Resource Conservation and Recovery Act of 1976. Local governments,

such as Will County, in this case, or a city, have an inherent right and a duty to protect their citizens. If they discern some hazard to the public in a landfill design or in its location or in its operation they should be free to make that case before the Pollution Control Board. I have seen nothing in RCRA that states that tighter requirements than those in the Federal regulations cannot be imposed. A technical Board, such as the Pollution Control Board, can weigh the evidence and make the correct ultimate decision.



 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 13th day of April, 1983.



 Christan L. Moffett, Clerk
 Illinois Pollution Control Board