

[THE STATE EX REL.] ON ENVIRONMENTAL SERVICES, APPELLANT, v.  
INDUSTRIAL COMMISSION OF OHIO ET AL., APPELLEES.  
[Cite as *State ex rel. ON Environmental Serv. v. Indus. Comm.*,  
1998-Ohio-535.]

*Workers' compensation—Court of appeals' judgment affirmed.*

(No. 97-1613—Submitted October 27, 1998—Decided December 30, 1998.)

APPEAL from the Court of Appeals for Franklin County, No. 96APD07-908.

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*Buckingham, Doolittle & Burroughs, L.P.A., George H. Rosin and Grant M. Yoakum*, for appellant.

*Betty D. Montgomery*, Attorney General, and *William J. McDonald*, Assistant Attorney General, for appellee Industrial Commission.

*Brian & Brian and Richard F. Brian*, for appellee Michelle K. Berns.

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{¶ 1} The judgment of the court of appeals is affirmed consistent with the opinion of the court of appeals.

MOYER, C.J., DOUGLAS, F.E. SWEENEY and COOK, JJ., concur.

RESNICK, PFEIFER and LUNDBERG STRATTON, JJ., dissent.

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**LUNDBERG STRATTON, J., dissenting.**

{¶ 2} I would reverse the judgment of the court of appeals on the basis that the landfill operation does not qualify as “construction.” Therefore, I respectfully dissent.

RESNICK and PFEIFER, JJ., concur in the foregoing dissenting opinion.

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