

ILLINOIS POLLUTION CONTROL BOARD  
December 20, 1990

PEOPLE OF THE STATE OF ILLINOIS     )  
  )  
                  Complainant,     )  
  )  
                  v.                    )  
  )  
ILLINOIS VALLEY PAVING COMPANY,     )  
  )  
                  Respondent.        )

PCB 90-139  
(Enforcement)


DISSENTING OPINION (by J.D. Dumelle):

I dissent from the Majority's approval today of the stipulation for the following reasons.

It is my belief that enforcement of the permit requirements constitutes a crucial aspect of the Illinois regulatory control system. Yet the way it is being handled currently, as reflected by the instant case, is so deficient as to render consent to the stipulation impossible. The current process merely runs through the criteria in a generic manner which sheds no understanding as to why this case was settled or how the fine stipulated to was calculated. It is virtually impossible to discern one stipulation from another.

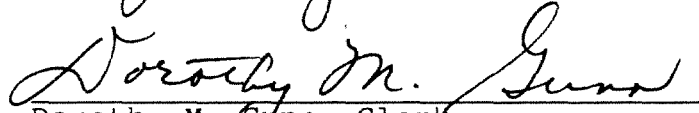
The case at bar not only reflects poorly on a significant aspect of regulatory enforcement, but continues this Board's years of ratification of low fines in the absence of mitigating factors. The resulting message to the regulated industry is hardly one which could be said to "enhance compliance with the Act". On the contrary, the clear message being sent by the approval of stipulations such as the one at bar remains that the permit requirements in Illinois can always be ignored at little or no cost. I come to this conclusion when the majority of this Board regularly approves stipulated agreements as permitted by the instant case where there exists no explanation of which factors were applicable or considered or why, in direct contravention of the complaint, were attorney's fees recoverable to Illinois not requested.

For these reasons, I respectfully dissent.

  
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Jacob D. Dumelle  
LCDR-CEC-USNR (Ret)  
Board Member

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Dissenting Opinion was submitted on the 8<sup>th</sup> day of January, 1991.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board