

ILLINOIS POLLUTION CONTROL BOARD
July 3, 1990

PEOPLE OF THE STATE)	
OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 88-199
)	(Enforcement)
SEEGERS GRAIN,)	
)	
Respondent.)	

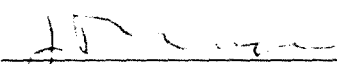
DISSENTING OPINION (by J. Theodore Meyer):

I dissent from the majority's acceptance of the settlement stipulation in this case.

Neither the Illinois Environmental Protection Agency (Agency) nor the Attorney General have articulated any standards as to what factors should be considered when negotiating a fine to be imposed pursuant to a settlement agreement. Additionally, although the proposed settlement agreement states that Seeger's noncompliance was economically beneficial in that it delayed acquiring adequate noise suppression equipment, there is not any specific information on the amount of that economic benefit. Section 33(c) of the Environmental Protection Act specifically requires the Board to consider any economic benefits accrued by noncompliance. I believe that this provision contemplates a consideration of the amount of the economic benefit, not just a statement that an economic benefit was realized. Without more specific information, it is impossible to know if the penalty of \$1,000 even comes close to any savings realized by Seegers. I am also bothered by the fact that the stipulation actually signed by the parties provides for only half of the penalty originally presented at the hearing.

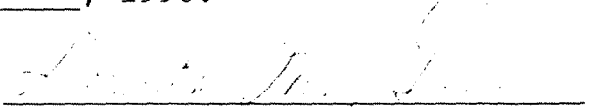
Finally, I am frustrated that, although this case was brought in the name of the people of the State of Illinois, there is no recognition that costs and fees could have been assessed against Seegers. Ill.Rev.Stat.1989, ch. 111 1/2, par. 1042(f). I am pleased that the Attorney General is beginning to bring enforcement cases in the name of the People, but I believe that settlement agreements in such cases should, at a minimum, recognize that the Board could award costs and reasonable fees.

For these reasons, I dissent.



J. Theodore Meyer
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 27 day of July, 1990.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board