

ILLINOIS POLLUTION CONTROL BOARD
August 10, 1989

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
v.) PCB 89-67
)
B & W CORPORATION,)
)
Respondent.)

MS. RENEE CIPRIANO, ESQ., ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE PETITIONER.

MR. JON C. JACOBSON REPRESENTED B & W CORPORATION.

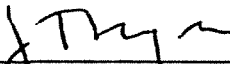
DISSENTING OPINION (by J. Theodore Meyer):

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

Neither the Illinois Environmental Protection Agency (Agency) nor the Illinois Attorney General has promulgated any standards as to what factors should be considered when negotiating a fine to be imposed pursuant to a settlement agreement. I believe that the \$2,500 fine agreed upon in the instant case is not sufficient. If this enforcement action had been brought by a State's Attorney or by the Attorney General in the name of the people of the State of Illinois, Respondent could have been assessed costs and reasonable attorney's fees. Ill. Rev. Stat. 1985, ch. 111 $\frac{1}{2}$, par. 1042(f). I am concerned that the instant fine may not even cover the Agency's costs and fees.

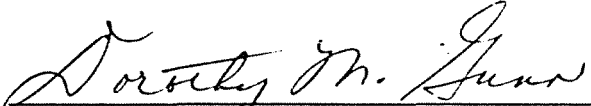
Additionally, the proposed settlement included no information on the amount of money respondent may have saved by not complying with the Act and the Board's regulations. Respondent may have realized quite a savings by failing to use the appropriate controls, and the \$2,500 fine may be merely a "drop in the bucket" compared with those savings. Such a low fine in the face of possibly large savings through non-compliance does not encourage the regulated community to comply with the Act and the Board's regulations.

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 10th day of August, 1989.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board