

ILLINOIS POLLUTION CONTROL BOARD  
September 20, 1979

ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 78-88 and
	)	PCB 78-225
	)	<u>Consolidated</u>
SUNDALE SEWER CORPORATION, an	)	
Illinois corporation,	)	
	)	
Respondent.	)	

DISSENTING OPINION (by Dr. Satchell):

In this case and in response to an Agency motion for reconsideration on October 4, 1979 (EPA and MSDGC v. IHC, PCB 75-12), the majority of the Board rejected the concept of contingent and suspended penalties in stipulated proposals for settlement.


When the penalty is: (1) for past violations; (2) given in an amount warranted considering the nature of the violations; and (3) contingent on an expeditious program for compliance, the stipulation should be accepted.

The stipulation should provide adequate mechanisms: (1) to determine when a breach of condition has occurred and (2) to provide relief in the unforeseen event of impossibility in meeting the conditions.

The majority contends that the contingent or suspended penalty serves no useful purpose. It is doubtful if the Enforcement Division would argue so forcefully for a useless enforcement tool. The contingent or suspended penalty represents another option in negotiating settlements. By adding flexibility to the settlement process, more settlements are encouraged.

  
Donald P. Satchell

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 26<sup>th</sup> day of October, 1979.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board