

ILLINOIS POLLUTION CONTROL BOARD  
March 17, 1977

PEOPLE OF THE STATE OF ILLINOIS )  
ex rel. WILLIAM J. SCOTT, ATTORNEY )  
GENERAL OF THE STATE OF ILLINOIS, )

Complainant, )

v. )

PCB 76-100 )

BRIGHTON BUILDING AND MAINTENANCE )  
COMPANY, a Delaware corporation, )  
WESTERN ASPHALT PAVING COMPANY, an )  
Illinois corporation, WESTERN ASPHALT )  
MANUFACTURING COMPANY, an Illinois )  
corporation, LANGHORNE BOND, as )  
Secretary of the Illinois Department )  
of Transportation, )

Respondents. )

Mr. Marvin Medintz, Assistant Attorney General, appeared for the Complainant;

Messrs. Clifford L. Weaver and Christopher J. Duerksen, Attorneys, appeared for Respondent Illinois Department of Transportation; Mr. Warren Fuller, Attorney, appeared for Respondents Brighton Building and Maintenance Company, Western Asphalt Paving Company, and Western Asphalt Manufacturing Company.

DISSENTING OPINION (by Mr. Dumelle):

My reasons for dissenting in this case are (a) the Board's failure to assess a penalty, (b) possible severe health damage (cancer) from the admitted gross emissions and (c) the non-binding nature of the settlement.

Apparently the heater-planer was grossly maloperated and large amounts of black smoke and particulate material were emitted. The

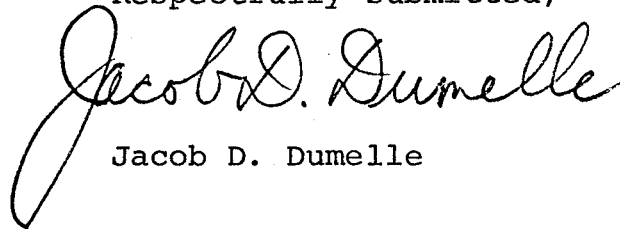
Stipulation (p.4) states that "coal tar" was being removed from the pavement. Coal tar, when vaporized is a known carcinogen. Coke oven workers have been shown to have much higher lung cancer rates than persons not exposed to coal tars. Thus vast quantities of coal tar vapors were generated probably containing benz(a)pyrene and other strong carcinogens.

What health damage may have been inflicted upon the public cannot be known. But if the "no threshold" theory of cancer induction is correct, then some persons may contract this disease because of poor equipment operation.

The settlement only prohibits the heater-planer when "alternative equipment is not readily available". This is not a binding settlement as I read it. Who is to judge "availability"?

I would have rejected the Stipulation and ordered it back to hearing or assessed a penalty of \$10,000.

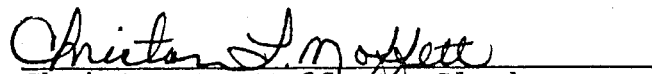
Respectfully submitted,



Jacob D. Dumelle

Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 16<sup>th</sup> day of June, 1977.



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Christan L. Moffett, Clerk  
Illinois Pollution Control Board