ILLINOIS POLLUTION CONTROL BOARD
March 22, 1990

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
Complainant,	)	
v.	)	AC 88-90 (Administrative Citation) (IEPA No. 9212-AC)
JAMES ESAREY,	)	
Respondent.	)	

DISSENTING OPINION (by J. Theodore Meyer):

I dissent from the majority's order granting the Illinois Environmental Protection Agency's (Agency) motion to withdraw its complaint. This case was ready for decision--a hearing has been held, and both parties have filed briefs. At this late stage, the Agency has moved to dismiss the complaint. Section 42(b) of the Environmental Protection Act requires any person who is found to have violated Section 21(p) or(q) to pay any hearing costs incurred by the Board and the Agency. These hearing costs have been incurred; because the proceeding has been dismissed upon the Agency's motion, Illinois will not have any opportunity to recover those costs. Therefore, I dissent.

J. Theodore Meyer
Board Member

I, Dorothy M. Gunn, hereby certify that the above Dissenting Opinion was filed on the 23rd day of March, 1990.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board