

ILLINOIS POLLUTION CONTROL BOARD  
December 7, 1995

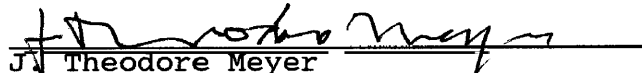
PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 96-24  
 ) (Enforcement - RCRA)  
 )  
 TERMINAL RAILROAD ASSOCIATION )  
 OF ST. LOUIS, a Missouri )  
 Corporation, )  
 )  
 Respondent. )

DISSENTING OPINION (by J. Theodore Meyer):

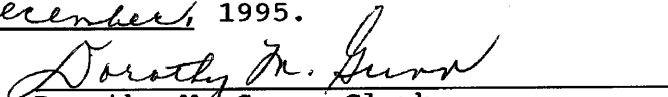
I respectfully dissent from the majority's order to accept this Stipulation and Settlement Agreement. Respondent's egregious behavior in this matter--storing hazardous materials in railway cars for 170 days--should have resulted in a stiffer fine.

As a violator of the Illinois Environmental Protection Act, Terminal Railroad should also be required to reimburse Illinois taxpayers for both direct and indirect costs incurred in the prosecution of its case. Section 42(f), which allows the Board to assess attorney's fees and costs incurred by the Office of the Attorney General, should be construed broadly and include indirect expenses such as travel time, administrative support, printing, copying and overhead. Attorney's fees should include life and health insurance costs incurred by the state during the case. I view the now common practice by state and local governments of charging a "user fee" to those who utilize a service (such as paying for photocopies) as a model for costs that should be imposed on a violator of the Act. After all, the time spent by the Attorney General's Office in prosecuting this matter certainly could have been used to handle other cases.

In light of Terminal Railroad's blatant disregard for the Act, I would have taken the opportunity presented in this case to order reimbursement for all costs--both direct and indirect--incurred by the Attorney General's Office.

  
J. Theodore Meyer  
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above concurring opinion was filed on the 17<sup>th</sup> day of December, 1995.

  
Dorothy M. Gunn, Clerk  
Illiois Pollution Control Board