

ILLINOIS POLLUTION CONTROL BOARD  
October 2, 2003

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 03-128  
) (Enforcement - Water)  
ROBERT HAMM d/b/a THREE R'S PIER )  
BUILDERS, )  
)  
Respondent. )

DISSENTING OPINION (by W.A. Marovitz):

The \$2,500 civil penalty agreed upon is, under these circumstances, unconscionably low. I therefore respectfully dissent from the majority decision accepting this proposed settlement.

Ten thousand gallons of *untreated sewage* was discharged into Fox Lake because respondent severed a sewer line. The proposed settlement is silent, however, as to cleanup, if any, of the resulting water pollution. Before excavating, respondent failed to contact the Village or Joint Utility Locating Information for Excavators (J.U.L.I.E.) about possible underground structures. This is shocking, especially for someone in the business of designing and constructing breakwalls and piers.

The purposes of the Environmental Protection Act (Act) (415 ILCS 5 (2002)) are plain:

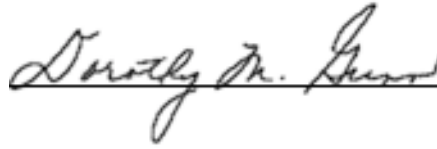
[T]o restore, protect and enhance the quality of the environment, and to assure that adverse effects upon the environment are fully considered and borne by those who cause them. 415 ILCS 5/2(b) (2002).

With the environmental harm and lack of diligence in this case, a mere \$25 penalty for every 100 gallons of untreated sewage released into the lake does not further the purposes of the Act. That is the ultimate measure of any Board order adopting a proposed settlement. *See Chemetco, Inc. v. IPCB*, 140 Ill. App. 3d 283, 288, 488 N.E.2d 639, 643 (5th Dist. 1986) (settlement assessed on whether it promoted “the primary goal of the Act[:] the enhancement of the environment”). The parties’ assertion that a \$2,500 penalty will deter future violations by this respondent and others similarly situated strains credulity. For these reasons, I dissent.



W.A. Marovitz  
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the above dissenting opinion was submitted on October 2, 2003.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board