

ILLINOIS POLLUTION CONTROL BOARD
June 21, 1990

PEOPLE OF THE STATE)	
OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 90-55
)	(Enforcement)
UNITED AMERICAN METALS,)	
an Illinois corporation,)	
)	
Respondent.)	


DISSENTING OPINION (by J. Theodore Meyer):

I dissent from the majority's acceptance of the settlement stipulation in this case.

Neither the Illinois Environmental Protection Agency (Agency) nor the Attorney General have articulated any standards as to what factors should be considered when negotiating a fine to be imposed pursuant to a settlement agreement. Additionally, although the proposed settlement agreement states that United American Metals' (UAM) noncompliance was economically beneficial in that it avoided the costs of site fees and preparation of permit applications and operated its lead melting pots without the delay of applying to and waiting for the Agency to issue permits, there is not any specific information on the amount of that economic benefit. Section 33(c) of the Environmental Protection Act specifically requires the Board to consider any economic benefits accrued by noncompliance. I believe that this provision contemplates a consideration of the amount of the economic benefit, not just a statement that an economic benefit was realized. Without more specific information, it is impossible to know if the penalty of \$4,500 even comes close to the savings realized by UAM.


Finally, I am frustrated that, although this case was brought in the name of the people of the State of Illinois, there is no recognition that costs and fees could have been assessed against UAM. Ill.Rev.Stat.1989, ch. 111 1/2, par. 1042(f). I am pleased that the Attorney General is beginning to bring enforcement cases in the name of the People, but I believe that settlement agreements in such cases should, at a minimum, recognize that the Board could award costs and reasonable fees.

For these reasons, I dissent.



J. Theodore Meyer
Board Member

I, Dorothy M. Gunn, hereby certify that the above Dissenting
Opinion was filed on the 29th day of June, 1990.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board