

ILLINOIS POLLUTION CONTROL BOARD  
July 19, 1990

PEOPLE OF THE STATE	)	
OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 90-7
	)	(Enforcement)
BLUE TEE CORPORATION (Azcon Scrap	)	
Division), a Maine corporation,	)	
	)	
Respondent.	)	

DISSENTING OPINION (by J. Theodore Meyer):

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

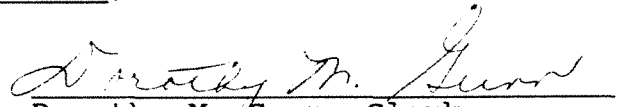
Neither the Illinois Environmental Protection Agency (Agency) nor the Attorney General have articulated any standards as to what factors should be considered when negotiating a fine to be imposed pursuant to a settlement agreement. Additionally, although the proposed settlement agreement states that Blue Tee's noncompliance was economically beneficial in that it conducted scrapping operations without expending additional money to manually remove wood sections of railroad cars, 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 that an economic benefit was realized. Without more specific information, it is impossible to know if the penalty of \$11,500 even comes close to any savings realized by Blue Tee.

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 Blue Tee. 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.

  
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J. Theodore Meyer  
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 19<sup>th</sup> day of July, 1990.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board