

ILLINOIS POLLUTION CONTROL BOARD  
December 16, 1982

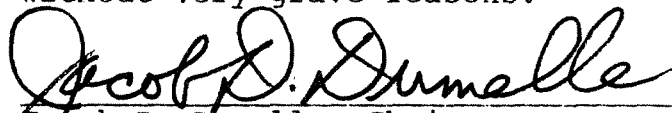
ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 81-183  
 )  
VILLAGE OF PAWNEE, an Illinois )  
municipal corporation, )  
 )  
Respondent. )

DISSENTING OPINION (by J.D. Dumelle):

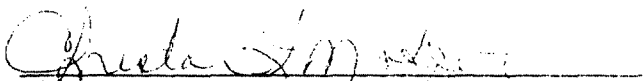
My reason for dissenting in this matter is the size of the penalty. The Village of Pawnee has a population of 2,512. A \$6,000 penalty, computes to \$2.39 per capita. The Metropolitan Sanitary District of Greater Chicago has a population within its borders of about 5,200,000. Would this Board for a similar offense impose on MSDGC a \$12,400,000 penalty? Of course not.

In addition, the Village of Pawnee is engaged in litigation in a related matter. It is litigating for \$1,650,500 in damages and \$10,000,000 in punitive damages from the Village's former consulting engineer and from the contractor according to a 1979 complaint filed in Circuit Court in Sangamon County. Not only is the Village of Pawnee incurring legal costs but if unsuccessful in its suit may be forced into large expenditures for repairs. Thus it seems to me that the \$6,000 penalty here approved by the majority is adding financial insult to a small community already perhaps gravely injured in a fiscal sense.

Lastly, the Stipulation is not clear as to whether the Village of Pawnee must eschew Federal or State grant funds just by passage of time or whether a definite rejection is first required (see p. 12, paragraph 8). I would not want to prohibit Federal or State funds for a small village without very grave reasons.

  
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Jacob D. Dumelle, Chairman

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 17<sup>th</sup> day of December, 1982.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board