

ILLINOIS POLLUTION CONTROL BOARD
October 5, 1982

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 81-143
)
RONALD WHEELER AND ROBERT WHEELER,)
individually, and doing business as)
WHEELER GARAGE AND COAL HANDLING)
OPERATION,)
)
Respondents.)

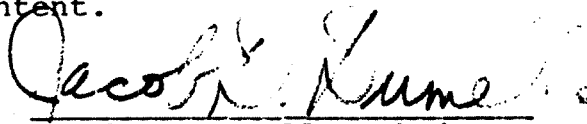
DISSENTING OPINION (by J.D. Dumelle):

My reason for dissenting lies in the intent of the Legislature in originally adopting the Environmental Protection Act in June 1970.


Penalties were to go to the General Fund and not to some fund earmarked for environmental improvements, except for fish kill costs. General revenues are subject to appropriation by the Legislature to whatever priorities are paramount at the time in Illinois.

By adopting this stipulation now the Board will find it much more difficult to refuse to accept a second one later. And that second one may involve a very large amount of money. It is possible that payments to the Environmental Trust Fund may have certain tax advantages (eligibility as a contribution for tax purposes, for example). We have no tax ruling before us and simply do not know the answer on this question.

A stipulation is an offer of a proposed settlement to the Board. The Board need not accept a stipulation if it is against public policy. Since the original expressed intent by the Legislature was to deposit penalties into general revenues, I would have stayed with that expressed intent.


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 5th day of October, 1982.


Christan L. Moffett, Clerk
Illinois Pollution Control Board