

ILLINOIS POLLUTION CONTROL BOARD  
April 9, 1992

PEOPLE OF THE STATE	)	
OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 91-254
	)	(Enforcement)
ACME PRINTING INK COMPANY,	)	
a Delaware corporation,	)	
	)	
Respondent.	)	

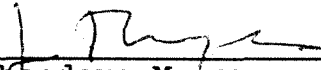
DISSENTING OPINION (by J. Theodore Meyer):

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

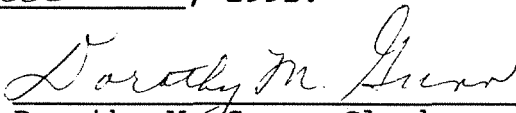
Although the proposed settlement agreement states that respondent's noncompliance was economically beneficial in that it avoided the payment of a fee for a construction permit, there is no further information on the amount of that economic benefit. Section 42(h)(3) of the Environmental Protection Act specifically requires the Board to consider any economic benefits accrued by noncompliance. I believe that this provision contemplates a consideration of the complete amount of the economic benefit. For example, what was the amount of economic benefit realized by being able to construct the equipment without waiting until the permit was applied for and obtained? Without more specific information, it is impossible to know if the penalty of \$17,500 comes close to any savings realized by respondent.

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 respondent. (Ill.Rev.Stat.1989, ch. 111 1/2, par. 1042(f).) I am pleased that the Attorney General is bringing 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 10<sup>th</sup> day of April, 1992.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board