

ILLINOIS POLLUTION CONTROL BOARD  
March 20, 2003

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 97-103  
) (Enforcement – Water, Land)  
STATE OIL COMPANY, an Illinois )  
corporation, WILLIAM ANEST f/d/b/a S & S )  
PETROLEUM PRODUCTS, PETER ANEST )  
f/d/b/a S & S PETROLEUM PRODUCTS, )  
CHARLES ABRAHAM, JOSEPHINE )  
ABRAHAM, and MILLSTREAM SERVICE, )  
INC., an Illinois corporation. )  
)  
Respondents. )

DISSENTING OPINION (by W.A. Marovitz):

I respectfully dissent from the Board's opinion and order issued today. I disagree with the assessed penalty and also believe that the Board should place a time limit on when the respondents must complete remediation at the site.

The facts show that in late 1983 or early 1984, gasoline was discovered leaking into Boone Creek. The record indicates that no mitigation or remediation work has been completed since at least 1996 and the Environmental Protection Agency (Agency) has not issued a No Further Remediation letter to any of the respondents.

Although all of the respondents made some effort at corrective action, the circumstantial evidence suggests that the site is still contaminated from the gasoline leaks, and the site has been contaminated for approximately the last 20 years. I am particularly troubled that the Board was not given more information at the October 2002 hearing regarding the status of the contamination at the site. In the future, it would be helpful to have information regarding the current status of a contaminated site. I am also troubled that there has been no remediation work completed at the site since 1996, and that it is possible that there continues to be leaking and contamination of an Illinois body of water (Boone Creek). All of the parties are aware of the contamination, so it is inconceivable to me that no affirmative efforts have been made since that time to clean up the site.

Given the longevity of this problem and the serious nature of the contamination, I disagree with the penalty the Board assesses today. Indeed, the \$20,000 assessed against each group of respondents essentially amounts to just under \$7,000 per respondent. That seems a small price to pay for such a long-lasting violation. I believe the penalty should not be lower than the People's suggested penalties of \$36,000 and \$42,000.

Additionally, although the Board orders the Anests, Abrahams, and Millstream Service, Inc. to conduct the necessary remediation work at the site in order to obtain a No Further Remediation letter, and in order to diligently pursue acquiring the letter, I believe the Board should set a deadline for completing the work at the site. This case has been before the Board for approximately seven years and the contamination has continued for approximately 20 years. I believe setting a deadline for completing the remediation would prevent the parties from letting the contamination linger any longer than absolutely necessary. Additionally, by setting a deadline, at least the Board would remain involved as to the current status of the problem and progression toward remediation. If efforts at remediation were being made and more time was needed, the Board could always grant an extension of time to complete the remediation.

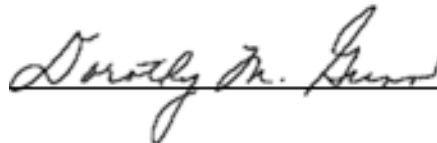
I support the Board's order that the parties are jointly and severally liable for the Agency's remediation costs, but note that these are costs the parties should have incurred themselves and the Agency only incurred the costs because the parties would not agree on who should clean up the site.

For these reasons, I respectfully dissent.

A handwritten signature in cursive script, reading "William A. Marovitz", written over a horizontal line.

William A. Marovitz  
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the above dissenting opinion was submitted on March 20, 2003.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board