

ILLINOIS POLLUTION CONTROL BOARD
September 5, 2002

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 97-20
) (Enforcement – Water)
BENTRONICS CORPORATION,)
)
 Respondent.)

ZEHEMHERET BEREKET-AB, ASSISTANT ATTORNEY GENERAL, OFFICE OF THE ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT.

DISSENTING OPINION (by W.A. Marovitz):

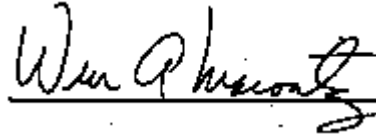
I respectfully dissent from the Board’s opinion and order issued today. I disagree with the assessed penalty.

Respondent intentionally discharged process waters through a floor drain, and even more egregiously, connected a hose to run out the back of the facility and drain towards the creek adjacent to the facility. Testimony revealed the hose was removed as fire fighters arrived at the scene in response to a hazardous material call. Respondent’s behavior was outrageous. After asking the Illinois Environmental Protection Agency (Agency) to terminate respondent’s wastewater discharge permit under the guise of using a close loop filter system to reuse respondent’s water, respondent intentionally disregarded the system and contaminated the creek with 1600 times the lead limit and 560 times the copper limit.

Consistent with my dissent in the Board’s decisions in People v. Crier Development Company and Bradley S. Cowell, PCB 96-256 (Aug. 8, 2002) and People v. Oak Terrace Sanitary System, PCB 03-4, (Aug. 8, 2002), I note that in creating the Environmental Protection Act (Act), the General Assembly stated that the purpose of the Act was, among other things “to assure that adverse effects upon the environment are fully considered and borne by those who cause them.” 415 ILCS 5/2(b)(2000) *amended by* P.A. 92-0574, eff. June 26, 2002. There is no doubt that the high levels of lead and copper are dangerous to the environment and the citizens of Illinois. There is no doubt that respondent acted deliberately, willfully, and with utter disregard of the Act and the Board’s water regulations. The Attorney General’s requested penalty of \$110,000 does not go far enough to deter companies like Bentrionics from acting so despicably. The statute allows a maximum penalty of \$640,000 and I see no reason not to assess a penalty closer to that amount. What more does a respondent have to do to get a higher penalty? How much more does the public have to be exposed to health hazards before a higher penalty is imposed?

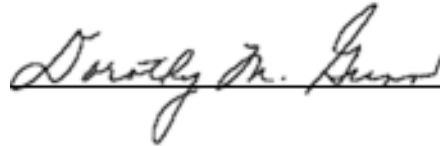
The Attorney General should take a tougher stance on violators who commit such flagrant violations of the Act. It is their duty as protectors of the citizens of Illinois.

For these reasons, I respectfully dissent.

A handwritten signature in black ink, appearing to read "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 September 5, 2002.

A handwritten signature in black ink, appearing to read "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board