

ILLINOIS POLLUTION CONTROL BOARD
November 21, 1996

EDWARD M. PEARL,)	
)	
Complainant,)	
)	
v.)	PCB 96-265
)	(Enforcement - Land)
BICOASTAL CORPORATION, SINGER)	
CORPORATION, CONTROLS)	
CORPORATION OF AMERICA)	
EMPLOYEE PROFIT SHARING AND)	
RETIREMENT TRUST, and EATON)	
CORPORATION,)	
)	
Respondents.)	

ORDER OF THE BOARD (by J. Yi):

This matter is before the Board on a complaint filed June 28, 1996, by Edward M. Pearl, against Bicoastal Corporation, Singer Corporation, Controls Corporation of America Profit Sharing and Retirement Trust, and Eaton Corporation. The complaint alleges that the respondents individually or collectively violated Sections 21(a), 21(d)(2), 21(e), and 21(f)(1) of the Environmental Protection Act (Act). (415 ILCS 5/21(a), 5/21(d)(2), 5/21(e) and 5/21(f)(1).) On August 15, 1996 the Board issued an order directing the complainant to file proof of service or an appropriate motion on or before September 1, 1996. On September 5, 1995 the Board granted an extension of time to file complainant's proof of service until September 27, 1996. On September 26, 1996, complainant filed a motion for an extension of time to file proof of service until October 21, 1996 on respondents and proof of service on the respondent Eaton Corporation. The Board granted that motion. On October 1, 1996 complainant filed proof of service of respondents Bicoastal Corporation and Singer Corporation. As of the date of this order no proof of service has been filed for respondent Controls Corporation of America Employees Profit Sharing and Retirement Trust.

On October 16, 1996 respondent Bicoastal Corporation formerly known as Singer Corporation copied the Board on a letter sent to complainant. The letter indicates that Bicoastal Corporation filed a petition for Chapter 11 with the United States Bankruptcy Court, Middle District of Florida, Tampa division on November 10, 1989. There is no indication that Bicoastal intended the Board to act on this letter. Therefore the Board will not act until Bicoastal directs an appropriate motion to the Board.

In a prior order we stated that this matter would proceed against the respondents in which we received proof of service. The complainant has not filed proof of service on respondent, Controls Corporation of America Profit Sharing and Retirement Trust as of the date of this order. Therefore, we dismiss Controls Corporation of America Profit Sharing and

Retirement Trust from this action and all future captions in this case shall not include Controls Corporation of America Profit Sharing and Retirement Trust as a respondent.

Pursuant to Section 31(b) of the Act and the Board's procedural rules, the Board must make a determination as to whether the complaint is frivolous or duplicitous, and if the Board finds that the complaint is neither frivolous or duplicitous, the Board shall set the matter for hearing and assign a hearing officer. (415 ILCS 5/31(b) (1992); 35 Ill. Adm. Code 103.104.) We find that in this case, the complaint is neither frivolous or duplicitous. There is no allegation nor statement in either the complaint or answer that there is another identical or substantially similar matter pending before the Board or in any other forum. (Brandle v. Ropp, (June 13, 1985), PCB 85-68, 64 PCB 263; League of Women Voters v. North Shore Sanitary Dist., (October 8, 1970) PCB 70-1,1 PCB 35; Winnetkans Interested in Protecting the Environment v. Illinois Pollution Control Board, 13 Ill.Dec. 149, 153, 370 N.E.2d 1176 (1st Dist. 1977).) As a result the Board directs the assigned hearing officer to proceed to hearing in this matter. If the parties believe that this matter should not proceed to hearing they should file the appropriate motion before the Board.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the ____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board