

ILLINOIS POLLUTION CONTROL BOARD

July 30, 1992

DAVID L. DRAVIS and	)	
MARGO DRAVIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 90-201
	)	(Enforcement)
	)	
M & D AG, JERRY MCGINN and	)	
BERT DAVIS,	)	
	)	
Respondent.	)	

WILLIAM R. SHIRK APPEARED ON BEHALF OF THE COMPLAINANT.

WILLIAM A. BURCH APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by G. T. Girard):

On May 8, 1992, David and Margo Dravis filed a complaint with the Illinois Pollution Control Board (Board) alleging that the respondents had violated Section 23 of the Illinois Environmental Protection Act. (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1023.)

On April 29, 1992, a hearing was held in Morrison, Whiteside County, Illinois. At that hearing an agreement which had been signed by the parties was submitted. The agreement is a "resolution of all of the matters noted in the complaint and it is a written signed settlement agreement". (Tr. at 3.) The parties jointly ask that the Board accept the agreement and make the terms and conditions of the agreement part of a Board Order. (Tr. at 3.)

The agreement states that the parties "have conferred and reached a mutual agreement concerning all issues alleged in the complaint". (Exhibit 1, at 1.) The agreement then sets forth several steps that the respondent will take to alleviate any potential noise emissions beyond the boundaries of respondent's property. However, the agreement does not set forth a fine to be paid by the respondent.

The Board finds the Settlement Agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement in no way affects respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

0135-0123

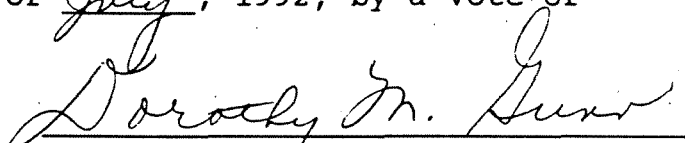
ORDER

The Board hereby accepts the settlement agreement signed by all parties. The settlement agreement is incorporated by reference as though fully set forth herein.

IT IS SO ORDERED

Section 41 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1041) provide for the appeal of final orders of the board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (But see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration, and Castenada v. Illinois Human Rights Commission (1989), 132 Ill.2d 304, 547 N.E.2d 437).

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 30<sup>th</sup> day of July, 1992, by a vote of 6-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

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