

ILLINOIS POLLUTION CONTROL BOARD

December 21, 2000

JOHN M. GIERTYCH, GERI GIERTYCH, )  
WALLY STOKLOSA, EARL DALIEGE, )  
EVERETT JOHNSON, MEDARD )  
SOWONIK, MAX PRINDLE, CHUCK )  
POLIZZI, MARGE POLIZZI, GEORGE )  
BRASSEA, GLADYS BRASSEA, NANCY )  
PITCHER, GERALDINE HUGHES, )  
BERNARD NAGEL, JOE RINGBAUER, )  
DEE RINGBAUER, CAROLYN MEYER, )  
JOE DAMPF, SALLY DAMPF, PAT )  
HENRY, GABRIELE DALZELL, CLIFTON )  
COOKE, BETTY JANE COOKE, PAM )  
SAYNER, CAROL BUMP, HELEN )  
BYTNAR, and LESLIE KOENIG, *et al.* )  
 )  
Complainants, )  
 )  
v. )  
4T'S MANAGEMENT, L.L.C., )  
 )  
Respondent. )

PCB 00-133  
(Enforcement - Noise, Citizens)

ORDER OF THE BOARD (by M. McFawn):

On December 7, 2000, respondent 4T's Management, L.L.C. (4T's Management) filed a motion to dismiss certain complainants for want of prosecution. 4T's Management's motion asked that the Board dismiss certain complainants to this case for failure to participate during telephonic status calls and respond to 4T's Management's discovery requests. 4T's Management claims that as a result of this lack of participation, its ability to fully defend and obtain a timely resolution of this matter has been adversely affected.

Pursuant to Section 103.140(c) of the Board's procedural rules, a party has seven days within which to respond to a written motion. That section provides in part:

If no response is filed, the parties shall be deemed to have waived objection to the granting of the motion, but such waiver of objection does not bind the Board in its determination.

As of this date, the Board has not received any response to 4T's Management's motion. Pursuant to Section 103.140(c), the Board deems complainants to have waived any objection to 4T's Management's motion.

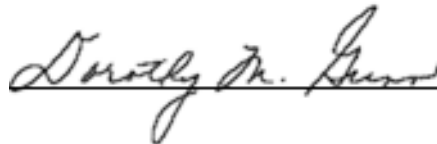
The hearing officer assigned to this case has conducted four telephonic status calls for this case, of which none of the complainants named in 4T's Management's motion have participated. In addition, on August 16, 2000, 4T's Management served a set of interrogatories and document requests on all complainants. None of the complainants named in 4T's Management's motion responded to the discovery requests. On November 17, 2000, 4T's Management filed a motion to compel all complainants to fully respond to 4T's Management's discovery requests.

On November 21, 2000, the hearing officer held a telephonic status call. Again, none of the complainants named in 4T's Management's motion participated in this call. During the call, the hearing officer ordered that all complainants fully respond to 4T's Management's discovery requests by December 2, 2000. Counsel for 4T's Management also raised the issue of dismissal of the complainants failing to comply with the discovery deadline. None of the complainants named in 4T's Management's motion have responded to the discovery requests as of the date of this order.

The Board grants 4T's Management's motion, dismissing the following parties from this matter with prejudice: Chuck Polizzi, Marge Polizzi, Nancy Pitcher, Geraldine Hughes, Geri Giertych, Carolyn Meyer, Sally Dampf, Joseph Dampf, Gabriele Dalzell, Pam Sayner, Carol Bump, Helen Bytnar, Leslie Koenig, Gladyce Brassea, George Brassea, Bernard Nagel, Joe Ringbauer, Dee Ringbauer, Pat Henry, Betty Jane Cooke, Clifton Cooke, Wally Stoklosa, Earl Daliege, Everett Johnson, Medard Sowonik, and Max Prindle. The Board directs the Clerk to amend the caption to reflect this order. The Board notes that any of the persons dismissed by this order may still participate in this case as witnesses if called at hearing, or by submitting written statements. See 35 Ill. Adm. Code 103.203(a).

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 21st day of December 2000 by a vote of 7-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board