

ILLINOIS POLLUTION CONTROL BOARD
April 21, 1983

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	PCB 78-247
)	
CONTINENTAL GRAIN COMPANY,)	
A Delaware Corporation,)	
)	
Respondent.)	
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CONTINENTAL GRAIN COMPANY,)	
A Delaware Corporation,)	
)	
Petitioner,)	
)	
v.)	PCB 79-111
)	(Consolidated)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	PCB 79-114
)	
CONTINENTAL GRAIN COMPANY,)	
A Delaware Corporation, and the)	
CHICAGO REGIONAL PORT DISTRICT,)	
An Illinois Municipal Corporation,)	
)	
Respondents.)	

ORDER OF THE BOARD (by J.D. Dumelle):


On March 28, 1983 Continental Grain Company filed a motion for reconsideration of the Board's February 23, 1983 Opinion and Order in this matter. Continental requests that the Board "make a definitive finding that Continental is in full compliance" with the Watercraft Loading Rule 203(d)(8)(B)(iv)(c)(2) of Chapter 2: Air Pollution. It argues that its request has taken on some urgency in that the Department of Justice has served a Demand Letter upon Continental regarding Continental's Elevators B and C.

In the January 23, 1983 Settlement Agreement the parties stipulated that "the Alum-A-Lite dust suppressor spout (or the equivalent) is determined to effectively meet the requirements of the Watercraft Loading Rule when used with aspiration at the top of the spout." However, in its February 24, 1983 Opinion and Order, the Board specifically declined to make such a finding.

The Board again declines to make such a finding, and the motion for reconsideration is hereby dismissed. The record contains no proof, other than the stipulation, that proper use of the Alum-A-Lite suppressor will assure compliance with the Watercraft Loading Rule. Installation and use of the suppressor was found to be a reasonable plan for attaining compliance and the Board adopted the settlement agreement on that basis. To go beyond that, as Continental requests, could have the effect of granting Continental site-specific regulatory relief which cannot be done in the context of an enforcement case. If the Board were to make such a finding, the Board would be assuming the burden of determining what control is necessary to reach compliance. That is not the Board's role. The burden is on Continental to achieve compliance with the rule, and if the use of the Alum-a-Lite suppressor fails to result in compliance, Continental must take further action. Further, the Board notes that the Demand Letter indicates that proper operation of the suppressor would form an acceptable basis for settlement of any federal dispute.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 21st day of April, 1983 by a vote of 4-0.


 Christan L. Moffett, Clerk
 Illinois Pollution Control Board