ILLINOIS POLLUTION CONTROL BOARD June 10, 1981

JAMES	S KAJI, DOROTI	HY KAJI, ET AL.,)	
		Complainants,)	
v.) PCB 80-	-46
R. 01	OLSON MANUFACTURING COMPANY, INC.,		.,	
		Respondent.)	

ORDER OF THE BOARD (by I. Goodman):

Complainants' May 18, 1981 Motion for Reconsideration of the Board's Opinion and Order of April 16, 1981 is granted.

The Board finds that the Order worked no denial of equal protection of the law (the alleged right of Complainants to "protection against the installation and operation" of machinery which causes noise emissions in excess of those required pursuant to Rule 206 of Chapter 8). The issue was a violation of the Board's regulations by Respondent. The installation of Respondent's machinery was not "illegal from the beginning."

There was no error in not finding a violation of the Board's regulations in consideration of the criteria listed in §33(c) of the Illinois Environmental Protection Act, nor was there error in considering those criteria.

As to the finding that Respondent had reduced its sound emissions as much as was practicable, no error is found. Testimony by parties is as reviewable by the Board as is testimony from experts. Moreover, §33(c) of the Act is relevant to the consideration of all testimony.

As to the finding that, although Respondent's operations are in close proximity to Complainants' residence, no violation of the Board's regulations existed; again, given §33(c) and potential shutdown, no error is found. The Board considered Rule 102 violations occurring less than 25 feet from the property-line-noise-source. Similarly, the fact that Respondent owns another plant in another city but chose to expand the plant involved in this case is not dispositive as to a finding under §33(c) of the Act of a violation of the Board's regulations.

The Board hereby affirms the Order entered on April 16, 1981.

IT IS SO ORDERED.

Mr. Dumelle dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 10 day of _________, 1981 by a vote of 3-1__.

Illinois Pollution Control Board