

ILLINOIS POLLUTION CONTROL BOARD
April 16, 1981

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 81-27
)
CABOT CORPORATION,)
)
Respondent.)

ORDER OF THE BOARD (by D. Satchell):


On March 6, 1981 Cabot Corporation (Cabot) filed a motion to dismiss the complaint filed February 19 by the Illinois Environmental Protection Agency (Agency). On March 11 the Agency filed a response and on March 19 Cabot filed a brief in support of its motion. Counts II through IX of the complaint allege violations of air and water pollution regulations arising out of the collapse on December 19, 1979 of a tower containing silicon tetrachloride. Count I alleges emission of contaminants arising from silicon tetrachloride on several dates from December 11, 1970 through January 24, 1980. There is no allegation of any causal relationship between these emissions and the December 19, 1979 event.

Cabot contends that Count I is barred in part because of either the two or the five year statute of limitations (Ill. Rev. Stat. 1979, ch. 83, Sections 15 and 16). However, these limitations are applicable only to personal actions to recover damages or a statutory penalty. There is no statute of limitations in the Act.

The parties have also argued laches and estoppel. However, the motion is not supported by sufficient facts to support a finding on these issues. Cabot may make these claims as an affirmative defense by way of answer (Procedural Rule 308). The motion is denied.

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 16th day of April, 1981 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board