## ILLINOIS POLLUTION CONTROL BOARD

January 9, 1975

ENVIRONMENTAL P	ROTECTION AGENCY,	)		
	Complainant,	)		
VS.		) F	PCB	73-223
MARBLEHEAD LIME	COMPANY,	)		
	Respondent.	)		

ORDER OF THE BOARD (by Mr. Henss):

Respondent Marblehead Lime Company has filed a "Motion to Vacate, or in Lieu Thereof, to Modify the Board's Order of October 10, 1974 and to Admit Evidence Relating to the Penalty Imposed in that Order". Several different contentions are made.

- 1. Respondent moves that we exclude evidence of possible violations occurring after the date of the filing of this Complaint. That motion is denied. We clearly stated on page 3 of the Opinion that "we make no findings of violations after the filing date of the Complaint". The findings of liability and the penalty are not based upon any evidence of Respondent's conduct which occurred after the date for the filing of the Complaint. Therefore, the request is moot.
- 2. Respondent requests that we admit as additional evidence the affidavit of Respondent's counsel and a photostatic copy of a newspaper article. The offer of evidence is not timely nor is the evidence competent or relevant. The motion to admit additional evidence is denied.
- 3. Respondent requests that the imposition of penalty be stayed. However, there is no reason to do so unless Respondent seeks review in the Appellate Court. The Motion for Stay of Penalty will be denied at this time since Respondent has not appealed from the Order of the Board.

4. Respondent requests that the Board specify the technologically and economically feasible controls which Respondent has been ordered to install. This Motion is also denied since it is not a function of the Board to specify the use of any particular type of equipment or particular process in the attainment of pollution standards. The citizens of Illinois meet pollution standards in a variety of ways and most companies prefer to use their own initiative and discretion in selecting equipment or process most suitable to their operations. The Board Order in this case adopts a well established procedure, i.e. the filing of a compliance program by the company with that compliance plan being subject to approval by the Agency. It is not a function of the Board to specify at the outset the precise controls which will be involved although the Board may ultimately review the adequacy of the compliance plan which is proposed by the company.

The Motion is denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted this 979 day of to ...

Christan Mysett