

ILLINOIS POLLUTION CONTROL BOARD
April 1, 2004

ANTHONY and KAREN ROTI, PAUL)
ROSENSTROCK, and LESLIE WEBER,)
)
Complainants,)
)
v.) PCB 99-19
) (Citizens Enforcement – Noise)
LTD COMMODITIES,)
)
Respondent.)

ORDER OF THE BOARD (by N.J. Melas):

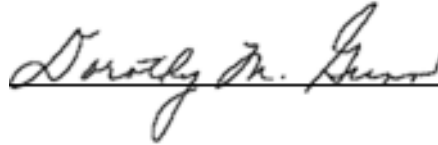
On March 15, 2004, LTD Commodities (LTD) filed a motion to supplement the record with new information regarding the sale of complainant Mr. Paul Rosenstock's home. LTD attached to the motion a copy of the transfer declaration for the sale of the home. To date, the complainants have not responded to the motion.

Once a party appeals a final Board decision to the appellate court, the Board no longer has jurisdiction to enter any order that would change or modify the Board's final judgment or its scope, or to rule on any substantive matter that is on appeal. ESG Watts, Inc. v. IEPA, PCB 01-139 (June 6, 2002); *aff'd IEPA v. PCB & ESG Watts, Inc.*, No. 4-02-0560 slip op. at 6 (4th Dist. 2002). Here, LTD filed an appeal of the Board's final order in the Second District Appellate Court on March 1, 2004. LTD moved the Board to supplement the record on March 15, 2004. Accordingly, the Board does not have jurisdiction to rule on LTD's motion.

Even assuming the Board had jurisdiction, LTD's motion would be denied. First, the information sought to be added to the record was not presented at any of the Board hearings in this proceeding that has been pending for five years. In addition, the Board issued a final opinion and order in this matter on July 24, 2003, and a supplemental opinion on February 5, 2004. The Board did not consider the information LTD seeks to add to the record in reaching either order. Because the information was not entered into evidence at hearing, the complainants could not present opposing testimony regarding the new information. For these reasons, the Board would not have allowed LTD to supplement the record at this late date.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 1, 2004, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board