

ILLINOIS POLLUTION CONTROL BOARD  
November 15, 1979

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 78-293  
 )  
 RALSTON-PURINA COMPANY, )  
 a Missouri corporation, )  
 )  
 Respondent. )

INTERIM ORDER OF THE BOARD (by Mr. Goodman):

On September 10, 1979 the parties to this action requested that a Stipulation and Proposal for Settlement (Stipulation) be approved by the Board. The Stipulation proposes a penalty of \$5,000 of which the sum of \$2,500 is suspended and payable only upon the Respondent's failure to have its plant in full compliance with the Board's Noise Rules by August 1, 1979 or by any extended date granted pursuant to paragraph R of the Stipulation.


The proposed penalty is a contingent one. The Board does not favor the imposition of contingent or suspended penalties in that, among other reasons, they preclude the Board from considering any mitigating or aggravating factors in the event that noncompliance should occur. EPA and MSD v. International Harvester Co., PCB 75-12 (August 23, 1979).

The Board hereby rejects the Stipulation and remands this case for further proceedings consistent with this Order.

IT IS SO ORDERED.

Dr. Satchell dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Order was adopted on the 15<sup>th</sup> day of November, 1979 by a vote of 3-1.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board