

on the matter. Hearing was held on July 12 and 13, 1976 in conjunction with PCB 75-508 and PCB 75-496, an enforcement action and variance petition respectively between the parties herein.

This Opinion of the Board will consider only the issue of whether or not Alton's submissions to the Agency were responsive to paragraphs 6 and 12 of the Board Order of May 22, 1975. In its letter to the Board on September 25, 1975 the Agency listed its objections to the report submitted by Alton in compliance with the aforementioned paragraphs of the May 22, 1975 Order. With regard to the response to paragraph 12, the Agency said "the Board should take note of the fact that the proposed diversion complies with its Order only insofar as the proposed diversion is approvable under the terms of paragraph 6 of the subject Order". The Agency then goes on to say in effect that since it has rejected the response to paragraph 6, the response to paragraph 12 is rejected insofar as it relates to the water treatment plant discharge abatement program under paragraph 6. The issue in this matter, therefore, narrows down to the Alton response to paragraph 6 of the Board Order of May 22, 1975.

Alton's response to paragraph 6 of the Order is contained in Exhibit No. AB-9 herein. In the letter to the Board dated September 25, 1975, the Agency states that it rejects this submission and carefully sets forth the reasons for the rejection. Alton, of course, claimed that its submission under paragraph 6 of the Board Order was a suitable response to the Order.

Alton, when faced with a Board Order indicating that the Board intended to use the Agency's expertise in determining the effectiveness of a proposed abatement procedure, failed to contact the Agency whose approval was necessary. Instead it developed the proposal on its own and dropped it "cold turkey" on the Agency when it was due. The Agency, upon receipt of this engineering report, did not contact Alton to point out the deficiencies of the report and attempt to correct the situation, but rather sent a letter to the Board complaining that the report was not acceptable.

The purpose of the Board in setting compliance dates for engineering reports and proposed procedures is to set a time frame in which the abatement of pollution may be accomplished. It is not the purpose of the Board to force a polluter to complete an exercise in engineering for which the Agency must determine whether it deserves a passing grade. Both parties should have worked together in this matter to develop a reasonable procedure to be used to abate the pollution. Bare exercises in report writing have no place in this procedure.

With respect to the report presented by Alton under paragraph 6 of the Board Order, the Board is inclined to agree with the Agency that much necessary information was lacking. On the other hand the Board finds no evidence of bad faith by Alton in this submission but rather

an unfortunate lack of sense of the scope of the problem and the purpose of the Board Order. Considering that a permit with respect to paragraph 6 has been issued by the Agency, the Board finds the issue here-in moot.

Mr. James Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion was adopted on the 3RD day of February, 1977 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board