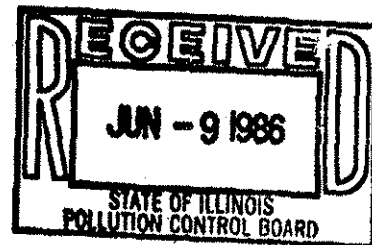


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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ALTON PACKAGING CORPORATION, )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY )  
Respondent. )

PCB 85-145



NOTICE

TO: Dorothy Gunn, Clerk  
Pollution Control Board  
State of Illinois Center  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

Richard J. Kissel  
Jeffrey C. Fort  
Daniel F. O'Connell  
Martin, Craig, Chester & Sonnenschein  
115 South LaSalle Street, Suite 2400  
Chicago, Illinois 60603

Richard J. Doyle  
4 N. Vermillion  
Suite 306  
Danville, Illinois 61832

Karl K. Hoagland, Jr.  
Hoagland, Maucker, Bernard & Almeter  
401 Alton Street  
P.O. Box 130  
Alton, Illinois 62002

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the Response to Motion for Reconsideration of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

ENVIRONMENTAL PROTECTION AGENCY  
OF THE STATE OF ILLINOIS

BY:

*William D. Ingersoll*

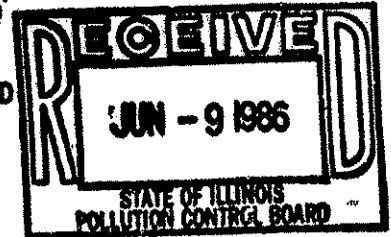
William D. Ingersoll  
Attorney  
Enforcement Programs

DATE: June 5, 1986  
Agency File #: 7676

2200 Churchill Road  
Springfield, Illinois 62706  
217/782-5544

WDI:ba/sp1280f/1

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD



ALTON PACKAGING CORPORATION, )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY )  
Respondent. )

PCB 85-145

RESPONSE TO MOTION FOR RECONSIDERATION

NOW COMES the Respondent, Illinois Environmental Protection Agency ("Agency"), and hereby responds in opposition to Petitioner's Motion for Reconsideration. In support of its response, the Agency says as follows:

1. The Agency denied a certain operating permit application from Petitioner on August 27, 1985. Petitioner appealed this permit denial by a petition filed on October 1, 1985. A hearing on the matter was had on January 6, 1986. The Illinois Pollution Control Board ("Board") issued its Opinion and Order in this matter on April 24, 1986 affirming the Agency's permit denial.

2. In its paragraph No. 2, Petitioner claims that the Board erred in its placement of the burden of proof on Petitioner. This was not error it was an accurate statement of the law from Section 40 of the Illinois Environmental Protection Act (Ill. Rev. Stat., 1985, Ch. 111 1/2, para. 1040).

3. Petitioner's reference to the Murray and Trettle study in Paragraph No. 2(1) is improper here. The content of such a study is outside the record in this case. Mr. John Bradley of Murray and Trettle was present at the hearing (R.T. - p. 3) but Petitioner declined to have Mr. Bradley testify in this matter. If Petitioner wished to carry its burden in this proceeding, it should have placed available testimony and evidence before the Board for its review.

4. In Paragraph 2(2) of its motion, Petitioner again tries to raise a red herring issue of an Agency response to the August 6, 1985 letter from Petitioner's Mr. Pyatt to the Agency's Mr. Franke. (See Agency Record - Ex. 3.) Petitioner claims that no response was ever provided. This allegation is improper as being nowhere supported in the record. Mr. Pyatt was present at the hearing (R.T. - p. 3) but did not testify as to a nonresponse by the Agency. Nor did he testify that such requested information was in fact necessary to enable Petitioner to evaluate the Agency's study. Please see the discussion of this issue at pages 5 and 6 of the Respondent's Post-Hearing Brief.

5. Petitioner's reliance on the case of State of Ohio, et al. v. USEPA is not well placed. That interim decision said that the USEPA acted arbitrarily in using the CRSTER dispersion model to set emission limits without validating such model for the sites evaluated. It is obvious that our case did not involve setting emission limits or promulgating regulations setting such limits. Petitioner also avoids noting that the Agency's study (A.R. - Ex. 5) included a statistical comparison of modeled values with monitored values. (R.T. - p. 68; A.R. - Ex. 5 at pages 3 and 4 and Table 4 on page 8).

6. The Board considered the predictive or non-predictive issue in its April 24, 1986 Opinion and Order and correctly noted that the Agency study was not designed to be predictive. However, the Board found that the Agency could reasonably draw certain expert conclusions "that Alton's boilers may cause a violation..."

WHEREFORE, since Petitioner's motion fails to show error in the Board's April 24, 1986 Opinion and Order the Agency respectfully requests that the Motion for Reconsideration be DENIED.

Respectfully submitted,  
Illinois Environmental Protection Agency

By: William D. Ingersoll  
William D. Ingersoll  
Attorney  
Enforcement Programs

Date: *June 5, 1986*

Illinois Environmental Protection Agency  
2200 Churchill Road  
Springfield, Illinois 62706  
217/782-5544

WDI:ba/sp1280f/2-4

STATE OF ILLINOIS }  
COUNTY OF SANGAMON } SS

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached  
REQUEST TO MOTION FOR RECONSIDERATION upon the person  
to whom it is directed, by placing a copy in an envelope addressed to:

Dorothy Gunn, Clerk  
Pollution Control Board  
State of Illinois Center  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

Richard J. Coyle  
4 N. Vermilion  
Suite 806  
Danville, Illinois 61832

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Chicago, Illinois 60603

Karl K. Hoagland, Jr.  
Hoagland, Maucker, Bernard & Almeter  
401 Alton Street  
P.O. Box 130  
Alton, Illinois 62002

and sending it by first class mail from Springfield, Illinois, on  
June 5, 1986, with sufficient postage affixed.

Mary L. McClernon  
Mary L. McClernon

SUBSCRIBED AND SWORN TO BEFORE ME

this 5<sup>th</sup> day of June, 1986.

Barbara K. Mc Gee  
Notary Public