

ILLINOIS POLLUTION CONTROL BOARD

September 4, 1997

EDWARD M. PEARL,)	
)	
Complainant,)	
)	
v.)	PCB 96-265
)	(Enforcement - Land)
BIOCOASTAL CORPORATION, SINGER)	
CORPORATION AND EATON)	
CORPORATION,)	
)	
Respondents.)	

ORDER OF THE BOARD (by J. Yi):

This matter is before the Board pursuant to a response to our order dated May 15, 1997 filed by complainant, Edward M. Pearl (Pearl or complainant). In our order of May 15, 1997 we stated the following:

The Board notes that the stay in this matter has been lifted for all parties including Bicoastal and Singer. Neither Bicoastal nor Singer have been active in this matter since a letter of October 16, 1996 and neither has joined in Eaton's motions. In the letter, that was sent to the attorney of complainant, it explained that the Singer changed its name to Bicoastal and that it filed for Bankruptcy in United States Bankruptcy Court for the Middle District of Florida. The Board notes that it has been unable to serve Singer while it has served Bicoastal with the Board's previous orders in this matter and no appearances have been filed. The Board directs complainant to file, along with its response to Eaton's motions, reasons why Bicoastal and Singer should remain as two separate respondents and whether either should remain as respondents in this matter.

In response to our request complainant states that "it appears that because BiCoastal is the former Singer Corporation, as between those two companies, BiCoastal is the correct respondent." (Response at 3.) Complainant also asserts that the bankruptcy stay protects BiCoastal from being served even though it may be responsible for contamination of the site. Finally, complainant states that both respondents were named because of their potential joint and several liability for the contamination and cannot recommend to the Board that it dismiss the respondents, unless however, the Board finds that it should dismiss these parties based on the bankruptcy stay.

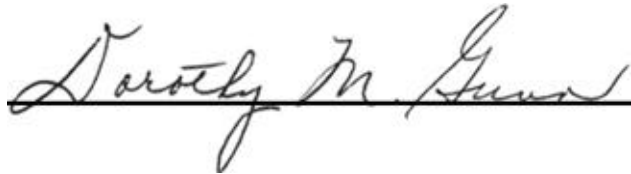
The Board has attempted to address this issue of BiCoastal's Chapter 11 Bankruptcy filing. In our order dated April 3, 1997 we noted the following:

On October 16, 1996 respondent Bicoastal Corporation formerly known as Singer Corporation copied the Board on a letter sent to complainant. The letter indicates that Bicoastal Corporation filed a petition for Chapter 11 with the United States Bankruptcy Court, Middle District of Florida, Tampa division on November 10, 1989. There is no indication that Bicoastal intended the Board to act on this letter. Therefore the Board will not act until Bicoastal directs an appropriate motion to the Board. The Board notes that in certain circumstances filing for bankruptcy is not always a defense to enforcement. (See People of the State of Illinois v. Michel Grain Company, Inc. (August 1, 1996), PCB 96-143 and People of the State of Illinois v. Robert D. Fosnock (September 15, 1994), PCB 94-1.)

The Board has received no filings from BiCoastal. There remains several outstanding issues which need to be resolved before the Board may make a determination as to whether conformation of a plan of reorganization by the United States Bankruptcy Court for BiCoastal affects complainant's ability to bring this action against Bicoastal. The Board directs the parties to file briefs on this issue on or before October 3, 1997, and reply briefs on or before October 17, 1997.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 4th day of September 1997, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board