

ILLINOIS POLLUTION CONTROL BOARD
August 26, 1993

RONALD E. TEX and SUSAN D. TEX,)
)
 Complainants,)
)
 v.) PCB 90-182
) (Enforcement)
S. SCOTT COGGESHALL and)
COGGESHALL CONSTRUCTION COMPANY,))
CHESTER BROSS, MIKE BROSS,)
CONSTRUCTION COMPANY,))
)
 Respondents.))

ORDER OF THE BOARD (by G. T. Girard):

On July 12, 1993, complainants filed a motion to reconsider the Board's June 17, 1993 opinion and order. On July 19, 1993, respondents filed a reply to that motion and a motion seeking modification of the Board's order. On August 2, 1993 complainants filed their response to the July 19 motion and a motion to file instanter. The motion to file instanter is granted.

The Board will first address the complainants motion to reconsider. The complainants motion asks the Board to expand its opinion and order to include a timeframe within which the respondents must take steps to alleviate the noise emissions from the asphalt plant. Specifically the complainants ask that the Board require the respondents to complete the actions within "30 days after expiration of the 35 day period for appeal of the June 17, 1993" Board order. (7/12/93 mot. at 2.)

The respondents reply that from a "practical standpoint, the remedial work should be accomplished within a reasonable time from and after the Order of this Board becomes final". (7/19/93 rep. at 1.) However, respondents maintain that 30 days is not a sufficient amount of time to complete all remedial steps due to various factors including weather and usual construction delays. The respondents believe that the work can be completed in eight to twelve weeks from the date that the Board's order becomes final. (7/19/93 rep. at 2.)

The Board will grant the motion to reconsider and will modify its June 17, 1993 order to include a specified timeframe for completion of the remedial action. The Board agrees that a timeframe for completion of the remedial action is necessary. However, the Board does not believe that 30 days is sufficient to complete the remedial action. Therefore, the Board will amend its June 17, 1993 order to include a 3 month deadline for completion of the remedial action.

Next the Board will address the respondents' motion seeking modification of the Board's order. The respondents ask that the Board modify provision 4 of its June 17, 1993 order which provides:

Construct a barrier wall as close to the inlet of the fire-burner fan as feasible. The barrier wall shall be at least 2.5 feet taller than the top of the opening for the burner in the end of the drum. The length of the wall shall be three times its height and it shall be centered at the burner. The barrier wall shall be made of sound absorbing material such as SoundBlox[®] or IAC Moduline[®].

The respondents indicate that the contract purchaser of the plant wishes to substitute a new technology burner in place of the barrier wall described above. (7/19/93 mot. at 2.) Dr. Paul Schomer, the respondents expert, indicated in Exhibit A attached to the motion that he can "reasonable expect that either of these new technology burners would be sufficiently quieter than your present burner so as to meet" the Board's rules. (7/19/93 mot. att. A.) To complete his study Dr. Schomer indicates that he will need at least 60 days.

The complainants indicate that the initial enforcement action was filed in October of 1990 and on October 29, 1992, the Board found a violation. The Board then granted until April 15, 1993 for a study to be conducted by respondents to develop potential remedial action plans for the site. The complainants state that the motion for modification does not point to any new technology that has been developed since the respondents submitted its study. Further, the complainants assert that the respondents have "presented no technical, factual or economic basis for allowing respondents further time to restudy their own proposal simply for respondents own convenience". (8/2/93 rep. at 2.)

The Board is not convinced that the respondents have provided sufficient justification for modifying the June 17 order. The respondents do not represent that this is a new technology just developed. The respondents also cannot assure the Board that a new burner will alleviate the noise violations. Therefore, the Board will deny the respondents' motion for modification. The Board notes that nothing in today's order precludes the installation of a quieter burner. However, the provisions of the June 17 order must also be followed.

As the Board has granted complainants' motion to reconsider, the Board will repeat the June 17, 1993 order with the modification below.

ORDER

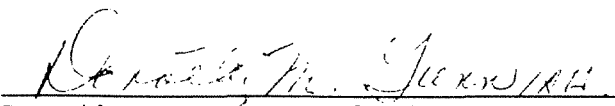
Respondents shall take, at a minimum, the following steps to alleviate the noise emissions from the asphalt plant located in Macomb, Illinois:

1. Replace the existing wooden barrier wall around the generator with a more permanent structure;
2. Install a 24" by 72" stack silencer such as the Industrial Acoustic Company's IAC Model SL3 silencer; and
3. Construct a barrier wall as close to the inlet of the fire-burner fan as feasible. The barrier wall shall be at least 2.5 feet taller than the top of the opening for the burner in the end of the drum. The length of the wall shall be three times its height and it shall be centered at the burner. The barrier wall shall be made of sound absorbing material such as SoundBlox[®] or IAC Moduline[®].
4. The respondents shall complete all remedial actions directed in this order no later than November 26, 1993.

IT IS SO ORDERED.

Board Member Ron C. Flemal dissents.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 26th day of August, 1993, by a vote of 5-1.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board