

ILLINOIS POLLUTION CONTROL BOARD
January 27, 1983

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 80-111
)
 CATERPILLAR TRACTOR CO. (MOSSVILLE),)
)
 Respondent.)

ORDER OF THE BOARD (by I. G. Goodman):

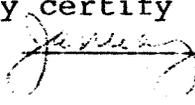
On January 4, 1983 the Illinois Environmental Protection Agency (Agency) filed a Motion for Reconsideration of the Board's Final Order in this matter. Caterpillar Tractor Co. (Caterpillar) filed a response on January 18, 1983. The Agency argues that since the Board found that Caterpillar had violated its NPDES permit, a penalty should be imposed, or at the very least a cease and desist order. Caterpillar responded that imposition of either falls within the discretionary powers of the Board.

Caterpillar's argument is correct. Based on the record, it appeared that the violations occurred during construction and that this same construction was intended to and did correct the cause of these violations. Therefore, imposition of a cease and desist order now is not necessary to assure that these same violations do not occur. The reason for not imposing a penalty was discussed in the December 2, 1982 Opinion. Motion for Reconsideration is denied.

IT IS SO ORDERED.

Board Member J. Anderson concurred and D. Anderson dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 27th day of January, 1983 by a vote of 4-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board