

ILLINOIS POLLUTION CONTROL BOARD  
December 1, 1983

COUNTY OF PEORIA, )  
A BODY OF POLITIC AND CORPORATE, )  
Complainant, )  
v. ) PCB 80-38  
BACON'S FARM LTD., JOELL ALLEN, )  
MANAGER, SECOND CHANCE AND STEVE )  
CORICH, MANAGER, SECOND CHANCE, )  
D/B/A SECOND CHANCE, )  
Respondents. )

ORDER OF THE BOARD (by J. D. Dumelle)

This matter comes before the Board upon a November 17, 1983 filing including:

1. Motion for leave to file instanter,
2. Joint final report of Bacon's Farm Ltd. and the County of Peoria,
3. Motion for leave to file instanter a motion by Bacon's Farm Ltd. for approval of its motion for reconsideration as amended and dismissal of this cause, and
4. Motion of Bacon's Farm Ltd. for approval of its motion for reconsideration as amended and dismissal.

The Board entered a final Order in this matter on May 13, 1982 wherein it ordered Bacon's Farm to take certain actions with regard to noise insulation at the premises known as the Second Chance. Further, the Board ordered Bacon's Farm to pay a penalty of \$1,000.00. Bacon's Farm filed a Motion for Reconsideration on June 21, 1982 and an Amended Motion for Reconsideration on June 29, 1982 which noted that in October 1981 Bacon's Farm sold Second Chance to an unrelated entity.

Although Bacon's Farm did not have any control over the property, it obtained the cooperation of O'Leary's, Inc., the then holder of a leasehold interest in Second Chance, and meetings with the County, representatives of O'Leary's, Inc. and Bacon's Farm, and neighbors were held.

Joint noise testing was conducted with Bacon's Farm's electronic consultants and representatives of the Illinois Environmental Protection Agency, after which it was determined jointly by the parties that an interior sound system would be sufficient to control any noise problems at Second Chance. Bacon's Farm then installed a sound monitoring system in May of 1983 and the parties jointly inspected the system.

Shortly before the installation of the sound monitoring system, O'Leary's, Inc. vacated Second Chance, which had no live entertainment for a period of months. Unfortunately, while arranging access for the inspection of the sound monitoring system, the system was partially dismantled through no fault of Bacon's Farm. Further, Bacon's Farm has no present control over the premises and has no ability to re-install the complete sound monitoring system.

Since the entry of appearance of present counsel for Bacon's Farm, Bacon's Farm has fully cooperated with the County, and while the County may have wished at times that certain matters proceed at a more expeditious pace, it agrees that the parties have proceeded in a spirit of cooperation to arrive at a mutually satisfactory solution to the issues and problems presented to the Board. The parties also agree that installation of the sound monitoring system should be considered in lieu of the roof insulation ordered by the Board in that it should have resulted in compliance with the noise regulations. They agree, further, that Bacon's Farm is not responsible for any noise disturbances since October 1981.

Given these facts, condition (2) of the Board's May 13, 1982 Order regarding roof insulation and condition (3) ordering Bacon's Farm to cease and desist are no longer necessary and, upon reconsideration, which is hereby granted, are deleted. The motions to file instanter are also granted.

All that remains is the motion to dismiss, and the only question in that regard is whether the penalty remains appropriate. The Board agrees with the County that while Bacon's Farm has been cooperative since January, 1982, its lack of cooperation from March, 1978 through the end of 1981 cannot be condoned, and the penalty provision should be retained.

Therefore, it is hereby ordered that:


Bacon's Farm shall, within 45 days of the date of this Order, pay a penalty of \$1,000 by certified check or money order payable to the State of Illinois, to be sent to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
Springfield, IL 62706

Respondents shall be jointly and severally liable for this penalty.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 13<sup>th</sup> day of December, 1983 by a vote of 7-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board