

ILLINOIS POLLUTION CONTROL BOARD  
April 19, 1984

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 83-163  
 )  
LARRY BITTLE, WILLIAM GAMBER, )  
LEONARD C. BITTLE, AND J. MAX )  
MITCHELL, )  
 )  
Respondent. )

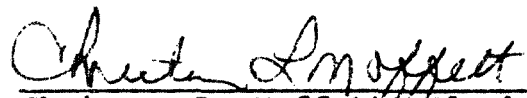
ORDER OF THE BOARD (by J. Anderson):

On March 28, 1984, respondents William Gamber and Leonard Bittle each moved for dismissal from this action. Each had been joined as a respondent by the Board's Order of January 12, 1984, granting respondent Mitchell's request for such joinder. The Agency, by the Attorney General, filed a response in opposition to dismissal on April 3, 1984.

The motions to dismiss are denied. The first ground for dismissal, the Agency's failure to serve respondents with copies of exhibits to the complaint, has been mooted by the April 3, 1984 service of the exhibits. The second ground asserted is failure to comply with the notice and settlement conference provisions of Section 31(d) of the Act, required to be fulfilled before the filing of a complaint. The Board concurs with the Attorney General's assessment that Section 31(d) is inapplicable here, where joinder of these respondents was not the result of an investigation by the Agency, but was instead the result of another respondent's request that additional respondents be impleaded.

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 19<sup>th</sup> day of April, 1984 by a vote of 6-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board