

ILLINOIS POLLUTION CONTROL BOARD
February 19, 1981

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 79-258
)
 CONTINENTAL GRAIN COMPANY,)
 a Delaware Corporation,)
)
 Respondent.)

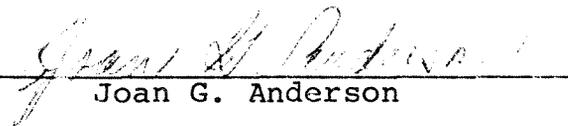
DISSENTING OPINION (by J. Anderson):

I believe that the acceptance of motions to dismiss enforcement complaints are not appropriate if such actions conflict with the letter and spirit of the Act and Board regulations by bypassing, in effect, all consideration of sanctions or conditions by the Board solely because the respondent subsequently "corrected" the violations.

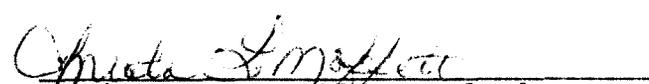
Such action bypasses such considerations as, for example, economic gains and environmental harm resulting from non-compliance. Subsequent compliance may be a mitigating factor in the enforcement process; it is not a substitute for it.

While I do not question the good faith of either the complainant or respondent, I believe the Act and Board regulations require, as a minimum, a stipulated settlement, presented in a public forum, and incorporated in a Board Order that may include admissions, conditions for achieving or maintaining compliance, and sanctions, if any, arising from the violations alleged.

Finally I believe this action is unfair to all entities similarly situated who properly have been held to an accounting for their non-compliance or who, in the future, might mistakenly expect that ultimate compliance, acting alone, will forgive prior non-compliance.


Joan G. Anderson

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 2nd day of March, 1981.


Christan L. Moffett, Clerk
Illinois Pollution Control Board