

ILLINOIS POLLUTION CONTROL BOARD  
December 15, 1989

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 86-104  
 )  
SOURS GRAIN COMPANY, an )  
Illinois corporation, )  
 )  
Respondent. )

INTERIM ORDER OF THE BOARD (by R. C. Flemal):

Hearing in this matter was held November 29, 1988, and a Stipulation and Proposal for Settlement ("Stipulation") was submitted at that time. The transcript of the hearing was received by the Board on December 14, 1988. The Board, however, notes some preliminary problems with the Stipulation as currently submitted.

The Board notes several inconsistencies regarding payment of the penalty installments. Section II A, page 6 states:

The first installment will be paid within 30 days of approval of this Stipulation and Proposal for Settlement and the second and third installments on January 30, 1989, and January 31, 1990.

Paragraph 19, p. 4 states:

This Stipulation and Proposal for Settlement shall terminate one year after approval by the Pollution Control Board or upon payment of the third penalty installment.

If the Board were to act on the Stipulation at its currently scheduled January 5, 1989 meeting or a later meeting, the first installment would be due in 30 days which would be after the second installment is due. Also, if the Board were to act prior to January 31, 1989, the third installment would be due after the termination of the stipulation, with the possibility that Respondent would no longer be bound to pay that installment.

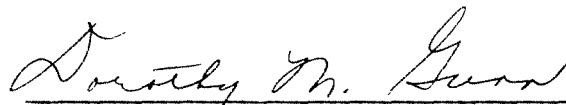
The Board further notes that paragraph B 1 of the Force Majeure Clause, p. 7, states that "[t]he Board shall retain jurisdiction of this case to resolve any disputes arising under the Proposal for Settlement." The Board disfavors retaining jurisdiction in this matter as that would necessitate leaving the

docket open pending any later disputes. If the parties intend that the Board remain the body to decide such disputes, should any arise, rather than some other body, the parties can so state without the Board retaining jurisdiction. There was some discussion of this issue at hearing, however, the parties' intent as to the Board's future role remains unclear (See R. at 8-11).

The Board brings these matters to the parties' attention prior to the Board's final action on the Stipulation in order to facilitate a speedy resolution of this proceeding. The parties may desire to modify the Stipulation to correct the timing problems as noted above, and to inform the Board of the parties' intention regarding the Board's future role. Modifications and any related documents shall be filed on or before January 3, 1989.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 15<sup>th</sup> day of December, 1988, by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board