ILLINOIS POLLUTION CONTROL BOARD September 12, 1972

ENVIRONMENTAL PROTECTION AGENCY) v.) ASHLAND CHEMICAL CO., A DIVISION) OF ASHLAND OIL, INC.; and BAIRD) CHEMICAL, A DIVISION OF LONZA,) INC.)

OPINION AND ORDER OF THE BOARD ON MOTION FOR SEVERANCE (BY SAMUEL T. LAWTON, JR.)

Motions for severance were filed by Ashland Chemical Co., Inc. and Lonza, Inc., in the above-captioned matter, each Respondent requesting severance of the proceeding heretofore filed against both Respondents, which motions asserted that Respondents are separate and non-affiliated entities, neither has control over the activities of the other and that the two plants, while adjacent, are physically separate, separately owned and unconnected.

The complaint filed in the proceeding alleges that on certain specified dates, Respondents have, by their operations, "either alone or in combination with other sources, caused or threatened or allowed the discharge or emission of contaminants into the atmosphere so as to cause or tend to cause air pollution in Illinois in violation of Section 9(a) of the Environmental Protection Act," which is an allegation of liability in the precise language of the Act. Violations can be found if, in fact, emissions alone or in combination with other sources, cause air pollution as defined in the Act.

We believe the most expeditious handling of this case from all points of view would be by trial of the cause in a single proceeding. Discovery and other pre-trial procedures are available to each Respondent to ascertain the position of the Agency in regard to the assertions against each Respondent, respectively. Admitted physical contiguity of the subject properties again sustain the propriety of the case being heardin a single proceeding. Nothing in the petition suggests, in any way, that due process would be denied to either Respondent by proceeding in the manner proposed.

Motions for severance filed by Ashland Chemical Co. and

Lonza, Inc. are hereby denied.

IT IS SO ORDERED.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board certify that the above Opinion and Order of the Board on Motion for Severance was adopted on the $\frac{f \sqrt{r}}{d}$ day of September, 1972, by a vote of $\underline{4}$ to $\underline{6}$.

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