

ILLINOIS POLLUTION CONTROL BOARD

September 5, 1974

CITIZENS FOR A BETTER ENVIRONMENT,)	
An Illinois not-for-profit corporation,)	
)	
Complainant,)	
v.)	PCB 74-171
)	
BULK TERMINALS COMPANY, and GERALD)	
SPAETH,)	
)	
Respondents,)	
)	
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	
v.)	PCB 74-193
)	
BULK TERMINALS COMPANY, a Delaware)	
corporation, and CABOT CORPORATION,)	
a Delaware corporation,)	
)	
Respondents.)	

ORDER DENYING MOTION TO STRIKE AND DISMISS (by Mr. Hens):

Respondents Bulk Terminals Company and Gerald L. Spaeth have filed motions and amended motions to strike and dismiss the Complaints in the consolidated actions. The Board has determined that the motions to strike and dismiss are without merit and they will be denied. This civil proceeding which has been brought under the Environmental Protection Act is not barred by the fact that a different complainant, the City of Chicago has previously obtained a conviction under a different law, the Chicago Municipal Code. Therefore this case will be scheduled for hearing. This order is without prejudice to the rights of the parties to introduce evidence of complaints or of other legal

actions or the payment of penalties and argue that such evidence should be considered by the Board in aggravation or mitigation of penalty. Such matters may be relevant upon hearing but shall not constitute a complete bar to this proceeding.

IT IS ORDERED that the motions and amended motions to strike and dismiss be denied.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Order was adopted this 5th day of September, 1974 by a vote of 5 to 0.

Christian L. Moffett