

ILLINOIS POLLUTION CONTROL BOARD
April 21, 1988

LEFTON IRON AND METAL COMPANY)
and LEFTON LAND AND DEVELOPMENT)
COMPANY, INC.,)
)
Complainants,)
)
v.) PCB 87-191
)
MOSS-AMERICAN CORPORATION and)
KERR-MCGEE CHEMICAL CORPORATION,)
)
Respondents.)

ORDER OF THE BOARD (by B. Forcade):

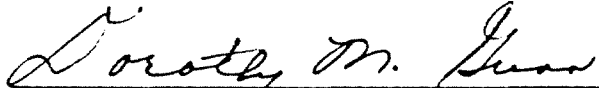
On March 30, 1988, the Respondents, Moss-American Corporation and Kerr-McGee Chemical Corporation ("Moss-American") filed a Motion to Dismiss this matter. The Board denies the motion.

The Complainants, Lefton Iron and Metal Company and Lefton Land and Development Company, Inc. ("Lefton") filed its complaint against Moss-American on November 30, 1987, alleging various violations of the Illinois Environmental Protection Act ("Act") and seeking various forms of relief. The Illinois Attorney General filed a complaint against both Lefton and Moss-American in the St. Clair County Circuit Court on January 7, 1988 apparently alleging, inter alia, the same violations involved in the present matter and seeking the same relief. Moss-American and the Attorney General entered into a consent order filed with the St. Clair County court on February 29, 1988. Moss-American filed the instant Motion to Dismiss on March 30, 1988. Lefton responded to this motion on April 15, 1988. Moss-American supplemented its motion by an April 18, 1988 filing with the Board.

The Board will not reiterate the parties' arguments. Moss-American has failed to demonstrate any legal basis for dismissal of this matter. The Board and the circuit courts of this state have concurrent jurisdiction over cases involving violations of the Act, but the Board lacks the broader powers of the courts. See Ill. Rev. Stat. ch. 111-1/2, Sections 1033 and 1042 (1988). The Circuit Court of St. Clair County is in a better position to judge the effect of the Board's proceeding with this matter on its jurisdiction and the effects of its orders in the parallel proceedings before it. In the absence of legal justification for dismissal or an order of the court, this matter before the Board will proceed.

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 21st day of April, 1988, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board