

ILLINOIS POLLUTION CONTROL BOARD
July 24, 2003

ANTHONY and KAREN ROTI, PAUL)
ROSENSTROCK, and LESLIE WEBER,)
)
Complainants,)
)
v.) PCB 99-19
) (Citizens Enforcement – Noise)
LTD COMMODITIES,)
)
Respondent.)

DISSENTING OPINION (by T.E. Johnson and M.E. Tristano):

We respectfully dissent from the Board's opinion and order issued today in this matter. We do not believe the record supports the remedial measures as imposed by the Board. While we agree that some of the ordered measures are both economically reasonable and technically feasible, we are loath to order, even conditionally, that LTD Commodities (LTD) cease nighttime trucking operations.

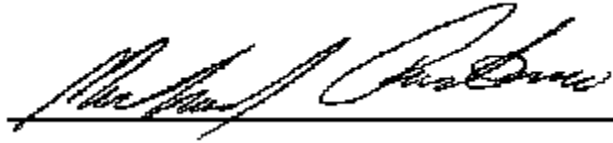
The Board's order directs LTD, *inter alia*, to cease trucking operations from 10:00 p.m. and 6:00 a.m. unless a continuous noise wall that is 25 feet tall and 520 feet in length is constructed. The record indicates that the construction of a noise wall is, at best, uncertain. The height of the wall is 19 feet in excess of that allowed by the Village of Bannockburn's zoning code. Because the village only allows a variance from up to 20% of the height allowed by ordinance, a text amendment changing the ordinance would be required. Thus, obtaining village approval for the construction of the noise wall is questionable. When coupled with the estimated cost of constructing the noise wall – anywhere from \$623,350 to \$3,000,000 – it becomes more likely that the Board is in effect directing LTD to cease nighttime trucking operations.

We do not believe that imposing such a drastic limitation on LTD's operations is appropriate. Instead, we believe, as did the Board in its February 15, 2001 interim order, that eliminating LTD's nighttime operations would not be economically reasonable. Roti v. LTD, PCB 99-19 slip op. at 30 (Feb. 15, 2001). The fact that LTD has voluntarily ceased nighttime trucking operations is not persuasive in this instance, and directing LTD to permanently continue this cessation is not warranted.

For these reasons, we respectfully dissent.

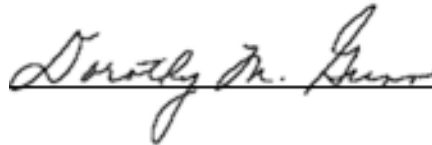
A handwritten signature in black ink, consisting of a large, stylized 'T' followed by a horizontal line that extends to the right.

Thomas E. Johnson
Chairman of the Board

A handwritten signature in black ink, featuring a cursive style with a prominent 'M' and 'T'.

Michael E. Tristano
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the above dissenting opinion was submitted on July 24, 2003.

A handwritten signature in black ink, written in a cursive style.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board