

ILLINOIS POLLUTION CONTROL BOARD
June 15, 1995

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| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 89-87 |
| |) | (Enforcement-Air) |
| |) | |
| MOLINE CORPORATION, an |) | |
| Illinois corporation, |) | |
| |) | |
| Respondent. |) | |
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| KATHY WESTERN AND JEFFREY WESTERN, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 89-44 |
| |) | (Enforcement-Noise) |
| |) | |
| MOLINE CORPORATION, an |) | |
| Illinois corporation, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by E. Dunham):

This matter comes before the Board on a "Motion to Dismiss Without Prejudice" filed on May 30, 1995 by the Illinois Environmental Protection Agency (Agency) in PCB 89-87.

The complaint in PCB 89-87 was filed with the Board on May 19, 1989 and alleged violations of noise and air regulations. On July 27, 1989, the Board granted a motion to consolidate PCB 89-87 with PCB 89-44. On December 20, 1990, the parties submitted a Stipulation and Proposal for Settlement which the Board accepted in an interim opinion and order on January 24, 1995. On April 25, 1991, the Board ordered respondent to pay stipulated penalties of \$21,800.00 for violating the settlement agreement. On April 25, 1991, respondent filed a voluntary petition under Chapter 11 of the Bankruptcy Code in the United States District Court for the Northern District of Illinois, Eastern Division. On June 23, 1992, the Board stayed proceedings in this matter until completion of the bankruptcy case. The Agency reports that respondent has subsequently ceased operation at the facility which is the subject of the complaint.

The motion before the Board requests that the complaint be dismissed without prejudice given the respondent's bankruptcy petition, the Board's stay of the proceedings and the cessation of violations alleged in the complaint due to the cessation of

operations. The Board grants the motion to dismiss without prejudice the docket in PCB 89-87¹.

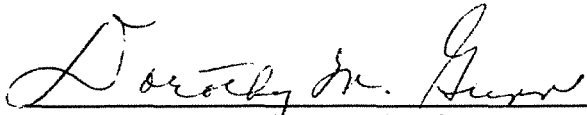
The Board believes that based on the facts presented above, the complaint in PCB 89-44 should also be dismissed. Therefore, the Board on its own motion dismisses the docket in PCB 89-44. The Board notes that if there are additional facts that would distinguish PCB 89-44, complainant may file a motion for reconsideration. (See 35 Ill. Adm. Code 101.300 Motions for Reconsideration.)

The Board dismisses PCB 89-87 and PCB 89-44 without prejudice and closes the dockets.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 15th day of June, 1995, by a vote of 6-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board

¹ The Board notes that the dismissal of this action is not intended to invalidate previous orders entered against respondent in this proceeding. The orders by the Board accepting the settlement agreement and imposing a penalty for violations of the settlement agreement remain enforceable orders.