

BEFORE THE ENVIRONMENTAL BOARD OF REVIEW

STATE OF OHIO

SAMUEL R. COBURN AND
JANE M. COBURN
10651 S.R. 28
Leesburg, Ohio 45135

Appellants,

v.

JAMES F. McAVOY, DIRECTOR
OF ENVIRONMENTAL PROTECTION
P. O. Box 1049
Columbus, Ohio 43216

EAST MONROE FARM SERVICES
Leesburg, Ohio 45135

and

HAROLD WASHBURN AND AUDREY
WASHBURN, DBA EAST MONROE
FARM SERVICES
State Route 28, Box 1
East Monroe, Ohio 45116

Appellees.

Case No. EBR 80-113

Issued on: February 3, 1981

FINDINGS OF FACT AND FINAL ORDER

Issued by:

THE ENVIRONMENTAL BOARD OF REVIEW
Thomas M. Phillips, Chairman
Sherman L. Frost, Vice-Chairman
James L. Baumann, Member

240 Parsons Avenue, Suite 123
Columbus, Ohio 43215
Telephone: 1/614/466-8950

COUNSEL FOR APPELLANTS:

No Counsel of Record

COUNSEL FOR APPELLEE, JAMES F. McAVOY:

Margaret A. Malone, Esq.
Assistant Attorney General
Environmental Law Section
30 E. Broad Street, 17th Floor
Columbus, Ohio 43215

COUNSEL FOR APPELLEES WASHBURN, DBA
EAST MONROE FARM SERVICES:

John W. Hoberg, Esq.
VORYS, SATER, SEYMOUR & PEASE
P. O. Box 1008
Columbus, Ohio 43216

On January 20, 1981 the Board conducted a record hearing in the above-captioned appeal. At the conclusion of the hearing, the Board ruled to affirm the Director, finding that the Director's dismissal of Appellants' verified complaint filed January 31, 1978 was both reasonable and lawful.

The Board found that Appellants' brief and arguments were concerned solely with the Director's September 24, 1979 action in which he granted a Permit To Install to Appellees, Harold Washburn and Audrey Washburn, dba East Monroe Farm Services, and the Director's action of January 15, 1980 which granted registration status to the grain dryer belonging to Appellees Washburn. The Board noted that while the Permit To Install was the subject of a previous appeal before the Board [Samuel R. Coburn, et ux. v. James F. McAvoy, Director of Environmental Protection, et al., Case No. EBR 79-115], Appellants Coburn never availed themselves of the opportunity to appeal the registration status granted to Appellees Washburn. In any event, neither of these topics were properly before the Board pursuant to the instant appeal.

In conclusion, the Board notes that on February 12, 1980 Appellants filed another verified complaint with the Appellee Director which allegedly deals more directly with environmental issues which are distinguishable from those already litigated before the Board. Further, the Board recognizes that the verified complaint that is the subject of this appeal was dismissed on the basis that it was moot. The instant ruling in the appeal of Samuel R. Coburn, et ux. v. James F. McAvoy, Director of Environmental Protection, et al., Case No. EBR 80-113, should not be construed as a resolution of those

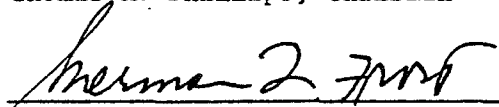
environmental matters which may be presented by Appellants' February 12, 1980 verified complaint.

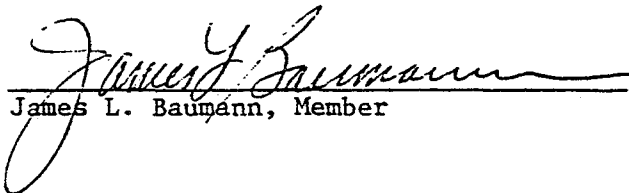
The Board, in accordance with Section 3745.06 of the Revised Code and Ohio Administrative Code 3746-13-01, informs the parties that:

Any party adversely affected by an order of the Environmental Board of Review may appeal to the Court of Appeals of Franklin County, or, if the appeal arises from an alleged violation of a law or regulation, to the court of appeals of the district in which the violation was alleged to have occurred. Any party desiring to so appeal shall file with the Board a Notice of Appeal designating the order appealed from. A copy of such notice shall also be filed by the Appellant with the court, and a copy shall be sent by certified mail to the Director of Environmental Protection. Such notices shall be filed and mailed within thirty days after the date upon which Appellant received notice from the Board by certified mail of the making of the order appealed from. No appeal bond shall be required to make an appeal effective.

THE ENVIRONMENTAL BOARD OF REVIEW


Thomas M. Phillips, Chairman


Sherman L. Frost, Vice-Chairman


James L. Baumann, Member

Entered in the Journal of the Environmental Board of Review this 3rd day of February, 1981, at Columbus, Ohio.

Copies of the Findings of Fact And Final Order were sent to:

SAMUEL R. COBURN AND JANE M. COBURN
JAMES F. McAVOY, DIRECTOR
EAST MONROE FARM SERVICES
HAROLD WASHBURN AND AUDREY WASHBURN
Margaret A. Malone, Esq.
John W. Hoberg, Esq.


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FINDINGS OF FACT
AND FINAL ORDER

Case No. EBR 80-113

CERTIFICATION

I hereby certify that the foregoing is a true and accurate copy of the Findings of Fact And Final Order in SAMUEL R. COBURN, ET UX. v. JAMES F. McAVOY, DIRECTOR OF ENVIRONMENTAL PROTECTION, ET AL., Case No. EBR 80-113, entered in the Journal of the Board on the 3rd day of February, 1981.


Mary J. Ikehdra, Executive Secretary

Dated this 3rd day of
February, 1981, at Columbus,
Ohio.