ILLINOIS POLLUTION CONTROL BOARD
October 18, 2001

DORIS GLAVE,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 02-11
	)	(Citizens Enforcement - Noise)
BRENT HARRIS, PATTY HARRIS, and	)	
WINDS CHANT KENNEL, INC.,	)	
	)	
Respondents.	)	

VILLAGE OF GRAYSLAKE,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 02-32
	)	(Citizens Enforcement - Noise)
WINDS CHANT KENNEL, INC.,	)	(Consolidated)
	)	
Respondent.	)	

ORDER OF THE BOARD (by T.E. Johnson):

On September 12, 2001, the Village of Grayslake (Grayslake) filed a complaint against Winds Chant Kennel, Inc. (Winds Chant). *See* 415 ILCS 5/31(d) (2000); 35 Ill. Adm. Code 103.204. Grayslake alleges that the respondents violated Section 24 of the Environmental Protection Act (Act) (415 ILCS 5/24 (2000)), as well as 35 Ill. Adm. Code 900.102, 901.102, and 901.104. Grayslake further alleges that the respondents violated these provisions by emitting noise resulting from the continual barking of dogs housed in respondent's boarding kennel located in Grayslake, Lake County. In the complaint, Grayslake requests that this matter be consolidated with Doris Glave v. Brent Harris, Patty Harris, and Winds Chant Kennel, Inc., PCB 02-11, currently pending before the Board. In the alternative, Grayslake requests that the complaint be treated as a motion for intervention. To date, Winds Chant has not filed a response to either request.

DUPLICITOUS/FRIVOLOUS DETERMINATION

Section 31(d) of the Act (415 ILCS 5/31(d) (2000)) allows any person to file a complaint with the Board. Section 31(d) further provides that "[u]nless the Board determines that such complaint is duplicitous or frivolous, it shall schedule a hearing." *Id.*; *see also* 35 Ill. Adm. Code 103.212(a). A complaint is duplicitous if it is "identical or substantially similar to one brought before the Board or another forum." 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests "relief that the Board does not have the authority to grant" or "fails to state a cause of

action upon which the Board can grant relief." *Id.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicitous or frivolous. 35 Ill. Adm. Code 103.212(b). The respondent has filed no such motion.

The Board has not identified any other cases brought by this party, identical or substantially similar to this, pending in other forums. Therefore, based on the record before us, this matter is not duplicitous. In addition, no evidence before the Board indicates that Glave's complaint is frivolous.
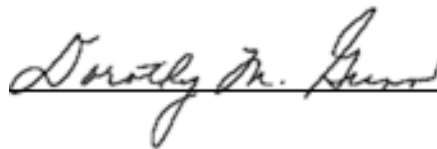
CONSOLIDATION

The Board may consolidate two or more proceedings if consolidation is in the interest of convenient, expeditious, and complete determination of claims, and if consolidation would not cause material prejudice to any party. 35 Ill. Adm. Code 101.406. The Board finds that consolidation with Glave, PCB 02-11 will not prejudice any party, and will assist in the expeditious and complete determination of claims in this instance. As reflected in the caption, the Board grants Grayslake's request to consolidate this matter with Glave, PCB 02-11 for the purposes of hearing. The Board makes no determination as to whether these cases will be consolidated for purposes of final decision.

CONCLUSION

The Board accepts the complaint for hearing. *See* 415 ILCS 5/31(d) (2000); 35 Ill. Adm. Code 103.212(a). A respondent's failure to file an answer to a complaint within 60 days after receiving the complaint may have severe consequences. Generally, if a respondent fails within that timeframe to file an answer specifically denying, or asserting insufficient knowledge to form a belief of, a material allegation in the complaint, the Board will consider the respondent to have admitted the allegation. 35 Ill. Adm. Code 103.204(d). The Board directs the hearing officer to proceed expeditiously to hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 18, 2001, by a vote of 7-0.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board