

ILLINOIS POLLUTION CONTROL BOARD  
March 26, 1992

DALE DETTLAFF AND DEBORAH )  
DETTLAFF )  
 )  
Complainants, )  
 ) PCB 92-26  
v. ) (Citizen Enforcement)  
 )  
EDWARD BOADO AND EPB )  
SERVICES INC., )  
 )  
Respondent. )

ORDER OF THE BOARD (by G. T. Girard):

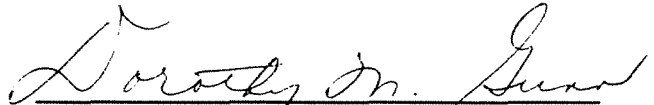
On February 14, 1992, this complaint was filed with the Board. On February 24, 1992, respondents filed a motion to dismiss asserting that the complaint was duplicitous and frivolous. On March 9, 1992, complainants filed a response. Respondents assert that the complaint is frivolous in that it is both factually and legally deficient because the complaint fails to allege violations for which a defense can be prepared and because the relief sought is beyond the scope of the Board's authority. Respondent asserts that the complaint is duplicitous because there is a 1987 Agreed Order and Stipulation entered by the Circuit Court of Lake County between respondent and the Village of Lake Zurich, which addresses the issue of noise from the respondent's facility.

The Board finds that the complaint is not frivolous. The complaint clearly sets forth alleged noise infractions which fall within the Board's purview. Further, the requested relief is also within the Board's authority, as the Board may order the respondent to cease and desist from all violations. (See Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1033.)

The Board has previously held that in order for a complaint to be duplicitous, the alleged violations in the instant complaint must be substantially similar to the alleged violations in the complaint which is asserted as duplicitous. Fredette v. Village of Beecher, PCB 89-61, 114 PCB 7, (August 9, 1990). The Board has also held that similar violations occurring at different times are not duplicitous. Janson v. Pollution Control Board, 69 Ill.App.3d 324. Therefore, based on the information currently before the Board which indicates that the alleged violations in the instant complaint occurred after the Agreed Order and Stipulation was entered and that the Dettlauffs were not a party to the circuit court action, the Board finds this case is not duplicitous. This case is accepted for hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Order was adopted on the 26<sup>th</sup> day of March, 1992, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board