

ILLINOIS POLLUTION CONTROL BOARD
September 12, 1991

JAMES W. TURNER,)
)
 Complainant,)
) PCB 91-146
 v.) (Enforcement)
)
 RICHARD TOFT, PRESIDENT)
 CHICAGO TITLE TRUST & COMPANY,)
)
 Respondent.)

ORDER OF THE BOARD (by J. C. Marlin):

On August 21, 1991, the Board received a Motion to Dismiss this case filed by the Respondent. The Complainant has not responded to that Motion to Dismiss. The Motion asserts that the complaint was filed against the wrong party as Respondent holds the legal title, but only under a trust agreement. The Motion further asserts that the trust agreement provides that the beneficiary of the trust has the right to possession and control.

The Board hereby denies the Motion to Dismiss as the Board believes that the "control" of the property is a factual issue which will be better decided after a hearing on the merits.

The Board directs the Hearing Officer to set this matter 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 12th day of September, 1991, by a vote of 7-0.