

ILLINOIS POLLUTION CONTROL BOARD
September 13, 1990

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 90-89
) (Enforcement)
FRED JOHNSON, HERMAN L. LOEB)
JOHNSON & BRIGGS TANK TRUCK)
SERVICE A/K/A JOHNSON & BRIGGS)
TANK TRUCK & HEATER SERVICE,)
an Illinois Corporation,)
)
Respondents.)

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

This matter is before the Board on a Motion to Dismiss filed by Respondent Herman L. Loeb ("Loeb"). The motion asserts that Complainant's First Amended Complaint should be dismissed as against Loeb for failure to give notice of the pre-enforcement conference required by Section 31(d) of the Illinois Environmental Protection Act.

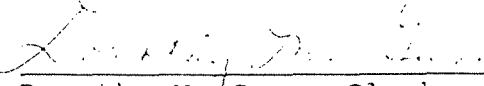
On August 30, 1990 the Board ordered Respondent to file an affidavit which supported the matters be asserted in his motion. On September 10, 1990, he did so. No response has been filed to the motion.

The Board's examination of the motion and supporting affidavit reveals that Loeb properly raises the failure to give the required 31(d) notice a matter requiring dismissal. Therefore, the motion is granted and the complaint, as against Respondent Loeb only, is dismissed.

IT IS SO ORDERED.

Board Member B. Forcade dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 13th day of September, 1990, by a vote of 6-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board