

ILLINOIS POLLUTION CONTROL BOARD
September 13, 1990

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
v.) PCB 90-140
) (Enforcement)
G & K INVESTMENTS, INC.,)
GARY CROSS and KEVIN LESSMAN,)
Individually and as Officers)
thereof,)
)
Respondent.)

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


This matter comes before the Board on Respondents G & K Investments, Inc., Gary Cross and Kevin Lessman's ("G & K") Motion to Dismiss filed August 13, 1990. The motion alleges due process violations and estoppel as matters which bar the complainant Illinois Environmental Protection Agency ("Agency") from filing the instant complaint.

G & K requests the Board to dismiss the complaint with prejudice. The motion is supported by affidavit. On August 21, 1990 the Agency filed Complainant's Response to Respondent's Motion to Dismiss.

Because the factual allegations made by G & K have been contested by the Agency, they have become matters which are best resolved after receipt of proof at hearing. Therefore, the motion to dismiss is denied. This ruling does not prevent a party from advancing the same contentions after completion of the hearing. (See 35 Ill. Adm. Code 103.140(e)).

IT IS SO ORDERED.

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 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board