

ILLINOIS POLLUTION CONTROL BOARD
October 24, 1985

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
and)
)
FLORENCE FARMER,)
)
Complainant-Intervenor,)
)
v.) PCB 79-233
)
GRANITE CITY STEEL, DIVISION OF)
NATIONAL STEEL CORPORATION,)
)
Respondent.)

INTERIM ORDER OF THE BOARD (by B. Forcade):

On September 5, 1985, the Board dismissed Complainant Illinois Environmental Protection Agency ("Agency") without prejudice, accepting the Attorney General's discretionary determination that enforcement resources are better expended elsewhere. The Board dismissed intervenor-complainant Florence Farmer for failing to respond to Board Orders requiring a response to the motion to dismiss by August 30.

By her October 2, 1985, Motion to Vacate, Florence Farmer informs the Board that the responses required by August 30 were served on the parties and the Board on the required date, but were mailed to the Board's old address. Consequently, the Board will vacate the Order of September 5, 1985, in its entirety.


The Agency's July 12, 1985, Motion for Dismissal with prejudice will again be granted. Florence Farmer asserts (Response to Complainant's (EPA's) Motion to Dismiss, p. 2-3) that the Agency has no discretion but to file and pursue a formal complaint once the Agency determines a violation has occurred. No case law is cited for this proposition. The Board rejects Florence Farmer's argument. Scott v. Briceland, 65 Ill. 2d 485, 359 N.E. 2d 149 (1976) declared Section 4(c) of the Environmental Protection Act unconstitutional to the extent it authorized the Agency to institute and prosecute proceedings before the Board by an officer other than the Attorney General. As Florence Farmer has cited no precedent or argument that the Attorney General must pursue litigation in all circumstances of violation the opposition to the motion to dismiss is fatally flawed. The Agency's July 12, 1985, Motion to Dismiss is granted.

Granite City Steel's July 30, 1985, Motion to Dismiss Intervenor's suit is denied. While the record discloses that none of the parties have been truly diligent, the matter is now ready for hearing. Florence Farmer is prepared to proceed and is aware that this Board cannot endorse personal settlements (Response to National Steel's Motion to Dismiss, p. 3).

To ensure rapid conclusion of this long delayed proceeding, the Board orders that hearing be scheduled within 30 days of the date of this Order and held within 60 days of the date of this Order.

IT IS SO ORDERED

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 24th day of October, 1985, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board