

ILLINOIS POLLUTION CONTROL BOARD  
December 2, 1982

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
 )  
Complainant, )  
 )  
and ) PCB 78-233  
 )  
FLORENCE FARMER, )  
 )  
Intervenor, )  
 )  
vs. )  
 )  
GRANITE CITY STEEL DIVISION )  
OF NATIONAL STEEL CORPORATION. )  
 )  
Respondent. )

ORDER OF THE BOARD (by I. G. Goodman):

On October 4, 1982 the Respondent filed a Motion for Reconsideration of the Board's September 2, 1982 Order in this matter. Leave to file this motion was granted on October 14, 1982 and responses allowed until October 22, 1982. No response has been filed by the Illinois Environmental Protection Agency, Complainant. On November 29, 1982, the Intervenor filed both a Motion to File Instanter and a Response. Leave to file is granted. Respondent's Motion for Reconsideration is granted.

Two issues are raised by the Respondent's motion. The Respondent argues that the Appellate Court remand does not vacate the Stipulated Agreement entered into by the Agency and Respondent. In support, the Respondent contends that intervention was not sought until after that Agreement had been filed; and that the Appellate Court's ruling on a motion and also by its final order limited the issue in that appeal to the right of intervention.

Despite the Respondent's first contention, it was only when the Board fully incorporated the Agreement into its Order of July 10, 1980 that the Agreement became final, and intervention was sought prior to that. Furthermore, to interpret the Court's remand as solely allowing intervention but not vacating the final Order, and therefore the Agreement, would be contrary to the rationale of the remand. This interpretation would leave the Intervenor with having gained a right and yet without any available remedy.

Secondly, the Respondent argues that pursuant to the Board's Procedural Rules, the Intervenor is barred from alleging violations prior to those alleged in the original complaint. Respondent contends that since the Intervenor must take the case as "she finds it," like the Complainant she is limited pursuant to Procedural Rule 326(b) to amending the pleadings with allegations of violation subsequent or continuing after the initial pleading was filed.

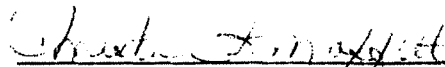
The legal maxim forwarded by Respondent is correct. It does not, however, mean that an Intervenor cannot so amend the pleadings. The Board must also consider the two-fold purpose of intervention: 1) to protect an interest which might otherwise be adversely affected by the outcome, and 2) to expedite litigation by disposing of the entire controversy among the persons involved in one action, and so to prevent multiplicity of actions." Strader v. Board of Education, 351 Ill. App. 438, 115 N.E. 2d 539, at 547 (1953).

Exercising its discretion, the Board has allowed the Intervenor to amend Counts I through IV in a limited manner. No new issues are raised, so the Intervenor has taken the case as she found it. Yet the purposes of intervention, in this case granted by the Fifth District, have been preserved. The September 2, 1982 Order is reaffirmed.

IT IS SO ORDERED.

Chairman J. Dumelle dissented. Board Member D. Anderson concurred.

I, Christan L. Moffet, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 2<sup>nd</sup> day of December, 1982 by a vote of 3-1.

  
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 Christan L. Moffet, Clerk  
 Illinois Pollution Control Board