

ILLINOIS POLLUTION CONTROL BOARD
July 8, 1976

ENVIRONMENTAL PROTECTION AGENCY)
)
 Complainant,)
)
 v.) PCB 75-447
)
)
 EUGENE BERNARDI, JR., EMIL)
 BERNARDI, KENNETH BERNARDI, and)
 KENNETH TRUMP, doing business as)
 Oglesby Construction Company,)
)
 Respondents.)

INTERIM ORDER OF THE BOARD (by Mr. Dumelle):

On November 14, 1975 the Environmental Protection Agency (Agency) filed a Complaint against Mr. Eugene Bernardi, Sr. By leave of the Board, the Agency, on January 9, 1975, filed an Amended Complaint substituting the presently named Respondents. On February 19, 1976 a hearing was held in this matter at which Respondent Trump did not appear. The Second Amended Complaint was filed on April 29, 1976 and contains five counts.

The second Amended Complaint was filed pursuant to a ruling of the Hearing Officer at this hearing in this matter (R. 57-58), and drops all allegations of violations made in the Amended Complaint as against Emil Bernardi. The second Amended Complaint also eliminated Count VI of the Amended Complaint. The Board finds that the Hearing Officer was without authority to grant leave to file a second Amended Complaint. The result of the granting of that motion was the dismissal of one party and one entire Count, which is in violation of Rule 308(f) of the Board's Procedural Rules. Any such motion must be brought before the Board.

On its own motion the Board will, nevertheless, grant leave to file the second Amended Complaint.

This matter concerns the dumping of solid waste on a three-acre site located near Piety Hill, LaSalle County, Illinois. After a careful review of the record in this case the Board finds that it would be helpful to have additional evidence on the cost of bringing this site into compliance. The Board therefore remands this cause to the parties for the submission of affidavits giving the best estimate of each party of the cost of (1) converting the site into a sanitary landfill and (2) removing the refuse to the nearest sanitary landfill or otherwise disposing of the refuse in a legal manner. These affidavits shall be submitted to the Board and served upon each party within 30 days of the date of this Order. The parties will then have 15 days within which to comment, by affidavit, on the estimates of the other parties.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Order was adopted on the 8th day of July, 1976 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board