

Respondent's second contention involves an alleged conflict of interest in having the Attorney General prosecute this action as the Attorney General represents the Illinois Commerce Commission to which respondent is also subject. We find this allegation specious in view of the lack of any definite damage to the respondent. Respondent fails to state whether there are proceedings pending before the I.C.C., involving Respondent, which are in conflict with the instant proceeding. In any event, the I.C.C. does not have jurisdiction to hold hearings or issue orders concerning violations of the Environmental Protection Act.

The next two contentions of Respondent involve interpretations of Rule 602(b). In both contentions, Respondent argues that 602(b) refers only to Combined Sewers and Treatment plants bypasses. The language of 602(b) states: "...Overflows from sanitary sewers are expressly prohibited." As the respondent admits to operating a sanitary sewer, Rule 602(b) plainly applies to it.

We find that Rules 602(b) and 601(a) are not so vague, indefinite or ambiguous and arbitrary as to be unenforceable or contrary to the constitutions of the State of Illinois or the United States.

Respondent's contention that it has a duplicate power plant does not meet all the allegations of paragraph 6 of the complaint. It does raise a question of fact which will be disposed of after a hearing on the merits.

The Complaint does state dates of alleged violations of the Act and sufficiently puts the Respondent on notice of specific violations complained therein so as not to be subject to a motion to dismiss. See EPA v. Ashland Chemical Co. & et al PCB 72-188.

Finally, Respondent contends that the Board does not have authority to impose monetary penalties or cease and desist orders. It is well settled that the Board does have authority to impose monetary penalties and cease and desist orders. Such authority is neither an unlawful delegation of judicial power or a denial of due process and equal protection of law. Cobin v. P.C.B. et al 16 Ill. App.3d. 958, 397 NE 2d. 191 (1974); City of Monmouth v. E.P.A. et al 57 Ill.2d 482, 313 NE 2d 161 (1974); Ford v. E.P.A. et al, 91 Ill. App. 3d. 711, 292 NE 2d. 540 (1973); City of Waukegan v. P.C.B., 57 Ill.2d. 170, 311 NE 2d 146 (1974).

It is the opinion of the Board the Respondent's motion to Dismiss be denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and order were adopted on the 8th day of May, 1975 by a vote of 3-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board