

ILLINOIS POLLUTION CONTROL BOARD

November 8, 1973

ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	PCB 73-282
)	
ADOLPH RAYMOND AND JOSEPH NOVELLE,)	
)	
Respondents.)	

ORDER OF THE BOARD (by Mr. Henss)

Respondents have filed Motion to Strike all portions of Complaint seeking assessment of fine. That Motion is denied. The authority of the Board to assess monetary penalties is an issue now pending before the Illinois Supreme Court in City of Waukegan vs. EPA and PCB. The Board has determined to deny motions of this type pending ruling by the Illinois Supreme Court. The issue may be raised again by Respondent following the issuance of a Supreme Court decision in the Waukegan case.

Respondents Motion for Continuance is also denied. A review of the pleadings indicates that the Waukegan case will not decide all of the issues herein and that issues will remain for adjudication even if the Supreme Court decision is favorable to the position taken by Respondents. We do not decide the merits but simply that the trial should proceed. Respondent is not barred from raising these same points at the hearing or in post hearing motions.

Motion to Strike all portions of Complaint seeking assessment of fines is hereby denied. Motion for Continuance is hereby denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted this 8th day of November, 1973 by a vote of 5 to 0.

Christan L. Moffett