ILLINOIS POLLUTION CONTROL BOARD February 14, 1973

CITIZENS	FOR A	BETT	ER	ENVIRONMENT	Γ,)	
			Сс	omplainant		<i>)</i>)	#73-19
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GLENVIEW	NAVAL	AIR	STA	ATION,)	
			Re	espondent.)	

ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.):

Complaint was filed against Glenview Naval Air Station, Glenview, Illinois, alleging violation of Section 403 of the Water Pollution Regulations and Section 12(a) of the Environmental Protection Act as a result of discharges of certain contaminants into waters tributary to the Chicago River.

A motion to dismiss was filed by the United States Attorney for the Northern District of Illinois on behalf of Glenview Naval Air Station alleging that Respondent is a facility of the Department of the Navy, which is part of the executive branch of the United States Government, and accordingly, immune from suit by reason of sovereign immunity. An answer to the motion to dismiss was filed by complainant. A reply to the answer was filed by respondent, which we have carefully considered and do not believe sustains respondent's contention of sovereign immunity.

The Illinois Environmental Protection Act defines person as:

"Person is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns" (Section 3(1)).

All "persons" so defined are subject to the provisions of the Act unless immunity in some form can be demonstrated.

Section 313 of the Federal Water Pollution Control Act Amendments of 1972 expressly provides that each department, agency or instrumentality of the executive, legislative or judicial branches of the Federal government shall comply with state and local requirements respecting control and abatement of pollution, except under

certain specified circumstances not applicable to the instant proceeding. We believe that sovereign immunity has been waived in this respect and, accordingly, deny Respondent's motion to dismiss. (See California v. Davidson, 1 ERC 1899, 1 ELR 20606, N. D. Cal., January 17, 1971, construing comparable provisions of prior legislation).

Complainant is authorized to amend the caption of the case to reflect that Glenview Naval Air Station is a facility of the Department of the Navy, which is a part of the executive branch of the United States Government. The Board finds that the complaint filed herein is neither frivolous nor duplicitious and directs that hearing be held accordingly.

IT IS SO ORDERED.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Order was adopted on the february, 1973, by a vote of _____ to ____.

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