

ILLINOIS POLLUTION CONTROL BOARD

October 18, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 73-109
)
 ARNOLD N. MAY, HILLVIEW FARMS)
 FERTILIZERS, INC., a domestic)
 corporation, and ARNOLD N. MAY)
 BUILDERS, INC., a domestic)
 corporation,)
)
 Respondents.)

ORDER OF THE BOARD (by Mr. Henss)

Respondents have filed Motion For Board Statement On Standard Of Proof requesting that we declare that "the Environmental Protection Agency of the State of Illinois, by and through its attorneys, the Attorney General of the State of Illinois, shall be required to prove its case according to the Standard of Proof 'beyond a reasonable doubt' as prescribed by the criminal statute so providing". Respondent's motion is denied. This is a civil proceeding. No criminal sanctions are requested by the EPA nor do we have jurisdiction over criminal proceedings. The hearing shall be conducted under the Environmental Protection Act and our Procedural Rules applicable to civil proceedings.

Respondents have also filed a "Motion for Protective Order" requesting that we issue a protective order "to prevent tampering with the witnesses". The claim is made that the Village of Richmond has altered the flow of raw sewage in such manner as to cause offensive odors and that such action was taken in retribution against August Asta, a witness who lives near the Richmond Sewage Treatment Plant. Respondent's motion is essentially a request for an injunctive relief and is beyond our powers. As an administrative Board we have only those powers conferred upon us by the Legislature and we do not possess injunctive powers of the Courts. Therefore, the Motion for Protective Order is denied without prejudice however to Respondent's right to seek such relief in court.

If any party has information of tampering with evidence or information of such nature bearing upon the credibility of witnesses,