

ILLINOIS POLLUTION CONTROL BOARD  
January 9, 1975

CITIZENS FOR A BETTER ENVIRONMENT )  
an Illinois Non-For-Profit Corp., )  
Complainant, )  
 )  
 )  
v. ) PCB 74-285  
 )  
 )  
 )  
NORTH ELMHURST SANITARY DISTRICT, )  
a Municipal Corporation and THE CITY )  
OF ELMHURST, a Municipal Corporation, )  
Respondent, )

ORDER OF THE BOARD (by Mr. Dumelle):

The City of Elmhurst filed a Motion to Dismiss on January 2, 1975. The Motion was directed to seven points. The first three points dealt with the ability of Citizens for a Better Environment (CBE) to maintain the present action. The Board has previously found in favor of CBE on these three points in a case entitled, CBE v. Citizens Utility Company of Illinois, PCB 74-367 (January 9, 1975).

The next two points raised by the City of Elmhurst deal with the Board's authority to levy a fine or enter a cease and desist order. These questions have been fully litigated in City of Waukegan v. Pollution Control Board, et al, 57 Ill. 2d 170; Cobin v. Pollution Control Board, 16. Ill. App. 3d 958. Therefore, these allegations do not support a Motion to Dismiss.

The Board finds that CBE stated enough allegations to give Respondent notice as to what he is being charged with so that he may put forth an adequate defense. Paragraph 3 of Count 1 alleges that the City of Elmhurst operates a sewage treatment facility. Paragraph 6 alleges that both the City of Elmhurst and the North Elmhurst Sanitary District have caused a violation of Rule 602(b) of Chapter 3. Paragraph 7 alleges that both Respondents have caused a violation of Rule 903(c)(3) of the Water Pollution Regulations by failing to obtain an operating permit from the Illinois Environmental Protection Agency. For these reasons, Points 5, 6, and 7 do not support a Motion to Dismiss.

The Board hereby denies the City of Elmhurst's Motion to Dismiss.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 9<sup>th</sup> day of January, 1975 by a vote of 5-0.



Christan L. Moffett, Clerk  
Illinois Pollution Control Board