

We have tried to make sense of the pleading by experimenting with our own renumbering of the paragraphs, but the new subparagraphs do not fit very easily into any part of the original complaint. No amended complaint was in fact filed.

One week after the Motion was filed, the parties appeared for a hearing. The attorneys then entered into a Stipulation which they now submit for our decision on the merits. The Stipulation provides in part:


- "1. That the Respondent was the owner of the property referred to in Paragraph 1 of the amended complaint.
2. That the allegations of Paragraphs 2, 3, 4, 5, 6 and 7 of the amended complaint are true as demonstrated by the exhibits attached to this Stipulation and identified consecutively as Nos. 1 through 35, both inclusive."

It was further agreed that "the witnesses" would testify that the EPA reports and photographs were true and accurate; that Respondent desired to close the site and was a man of modest means. The parties then jointly suggested the terms of an order to be entered by this Board.

Because of the obvious desire of the parties to close this matter without further hearing, we did attempt to make our findings of fact and law from the materials which were presented to us. We find, however, that the combination of the nonsensical pleadings and the reliance upon them as a basis for the Stipulation of Facts frustrates our purpose. Any determination of facts from this record would constitute the Board's own Stipulation of Facts. We see no alternative but to return the case to the Hearing Officer for further proceedings.

The Motion to Amend is denied. An appropriate record of testimony or Stipulation of Facts shall be submitted to this Board.

I, Christan L. Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion and Order at the 29th day of August, 1972 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board