

ILLINOIS POLLUTION CONTROL BOARD  
March 3, 1971

ENACT )  
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 v. ) # 71-34  
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 STATE BOYS' SCHOOL )

Opinion and Order of the Board (by Mr. Currie):

This is a citizen complaint alleging the discharge of raw sewage from the State Boys' School at Grant City State Park near Carbondale. The complaint alleges facts to support the conclusion and asks that "immediate action" be taken to correct the problem.

We applaud the efforts of these citizens to improve their environment by taking it upon themselves to call to the attention of the state authorities what, if their allegations are proved, amounts to a gross and egregious violation of the law by a state institution, which is required by the statute to set a good example by complying with the Pollution laws. Environmental Protection Act, section 47 (a). We note further that the Act specifically authorizes cases to be tried upon the formal complaint of any citizen (section 31 (b)), in recognition of the fact that the prosecuting agency (the Environmental Protection Agency) cannot be everywhere at once.

However, the present complaint was not drafted to meet the procedural requirements of the Board; it is in form a resolution asking the Board and other state agencies to take action. It is certainly adequate to stimulate an investigation by the Environmental Protection Agency, and we have sent that agency a copy of the resolution. But when the citizen becomes a formal prosecutor, as is his right under the statute, he must be more meticulous to meet the requirements of fair notice to the alleged violator as to the charges against him. We think the complaint should be redrafted to conform to the Board's procedural rules and served upon the alleged violator as provided in those rules.

We are sending the complainants a copy of the rules and call their attention specifically to rules 304 and 305. We also are sending them copies of the statute and of rules SWB-14, with the admonition that there are separate rules for discharges to other bodies of water which they may obtain upon request. We also call to their attention the obligation of the citizen complainant to prove his case by evidence in a hearing before the Board. If an amended complaint is submitted, we shall be pleased to hold a hearing, but our function at that time is that of a court; we cannot gather or present evidence.

We point all this out not in any way to discourage citizen complaints or to exalt procedural requirements as a barrier to ascertaining the truth. The procedural rules are a necessary safeguard for assuring that the defendant is fairly warned of the charges against him and given an adequate opportunity to defend. Compliance with the rules also helps to assure that the complainant has adequately prepared his case and for these reasons significantly promotes the search for the true facts.

The complaint is dismissed, with leave to submit an amended complaint.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion and Order this BKJ day of March, 1971.

[Signature]

I Concur

I Dissent

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