

ILLINOIS POLLUTION CONTROL BOARD
January 11, 1995

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 94-288
) (Enforcement)
 GRAYSLAKE GELATIN COMPANY, an)
 Illinois corporation; BLIDCO, INC.,)
 an Illinois corporation; ACME)
 CONSTRUCTION CO., INC., an Illinois)
 corporation; and DIVERSIFIED)
 ABATEMENT CONTRACTORS INC., an)
 Illinois corporation,)
)
 Respondents.)

ORDER OF THE BOARD (by E. Dunham);

On December 9, 1994, Grayslake Gelatin Company (Grayslake) filed a "Motion to Strike Certain Counts of the Complaint for More Definite Statement" and a "Motion to Dismiss Certain Counts of the Complaint for Failure to State a Cause of Action". Complainant filed responses to the motions on December 19, 1994.

The complaint in this matter was filed on October 11, 1994. The six count complaint alleges violations of the Illinois Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (1992)) and the national emission standards for hazardous air pollutants (NESHAP) as incorporated by Section 9.1 of the Act (415 ILCS 5/9.1 (1992)).

Grayslake contends that counts I through III of the complaint are vague, confusing and internally inconsistent and should therefore be stricken. Grayslake seeks the dismissal of counts IV, V, an VI of the complaint for failure to state a claim against Grayslake.

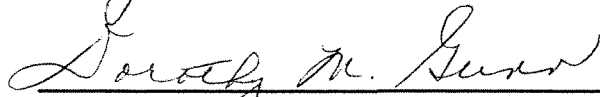
Complainant contends that the complaint is clear and legally sufficient. Complainant recognizes that there is a discrepancy in the amount of friable asbestos on the tank, but contends that this is not a legally significant error, as both amounts in the complaint are above the threshold level of a 160 square feet provided in 40 CFR 61.145(a)(4)(i)(July 1, 1991) and that this defect could be corrected by the filing of an amended complaint. Complainant alleges that the complaint is sufficient to state a cause of action against Grayslake.

The Board denies the motion to strike and the motion to dismiss. The Board finds the complaint sufficiently clear to provided notice to the respondent of the allegations alleged in

the complaint. The Board also finds that the complaint states a cause of action against Grayslake.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 11th day of January, 1995, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board