

ILLINOIS POLLUTION CONTROL BOARD  
November 3, 1988

VILLAGE OF KILDEER, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 88-173  
 )  
 )  
 VILLAGE OF LAKE ZURICH, )  
 NICHOLS GROVE PROPERTIES, )  
 LIBERTY LAKE PARTNERSHIP, )  
 ESR/ANDEN CORPORATION, )  
 LEXINGTON DEVELOPMENT CO., )  
 LEXINGTON HOMES, INC., )  
 )  
 Defendants. )

ORDER OF THE BOARD (by B. Forcade):

On October 31, 1988, ESR/Anden Corporation and Liberty Lake Partnership filed a suggestion that complaint is duplicitous or frivolous. On November 1, 1988, Lexington Development Company filed a motion and suggestion that complaint is duplicitous or frivolous. On November 2, 1988, the Village of Lake Zurich filed a suggestion to the Board on the duplicitous nature of the Village of Kildeer's ("Kildeer") complaint. On November 2, 1988, the Village of Kildeer filed its reply.

Kildeer's complaint claims that on certain dates, and for certain parameters, the effluent from Lake Zurich's wastewater treatment plant violates state standards. Kildeer seeks an order that such violations cease, and requests the imposition of civil penalties as described by statute. None of the motions urge that the complaint fails to state a cause of action, and none of the motions urge that this Board lacks statutory authority to hear such a complaint and grant the requested relief upon a finding of violation.

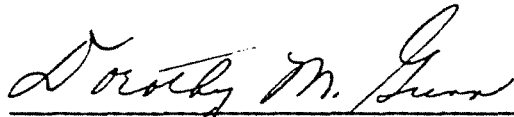
At most, the motions raise questions about Kildeer's motives in filing this action and describe legal actions between the parties in other forums not involving claimed violations of pollution laws. These assertions, even if true, do not justify a finding that this complaint is frivolous or duplicitous. The motions cite no pending legal action between the parties involving claimed violations of the Environmental Protection Act.

Consequently, the Board finds that Kildeer's complaint is not frivolous or duplicitous. This matter will be set for hearing.

IT IS SO ORDERED

Board Members J. Theodore Meyer and John Marlin dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 9<sup>th</sup> day of November, 1988, by a vote of 4-2.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board