

ILLINOIS POLLUTION CONTROL BOARD
October 8, 1981

CITIZENS AGAINST HAMPTON TOWNSHIP,)
LANDFILL,)
)
Complainant,)
)
v.) PCB 81-112
)
DAVID R. BLEDSOE, ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY, DAVE LIGINO AND)
STEVE LIGINO,)
)
Respondents.)

ORDER OF THE BOARD (by J.D. Dumelle):

On August 10, 1981 Citizens Against Hampton Township Landfill (Citizens) filed a motion for reconsideration of the Board's July 23, 1981 Order of dismissal of this action. An objection to that motion was filed by the Illinois Environmental Protection Agency on August 19, 1981. On September 25, 1981, Citizens filed a motion for leave to file an amended petition accompanied by that petition. On October 8, 1981, a response in opposition for leave to amend was filed by the Agency. The motion for reconsideration is hereby granted, and the language of the July 23, 1981 Order in this matter is hereby modified by replacing the last sentence of the third paragraph and the entire fourth paragraph with the language below:

The same reasoning would necessarily apply to violations alleged on the part of the applicant in obtaining the permit.

Therefore, the Board holds that it lacks the authority to consider those counts of the complaint which allege violations with respect to the permit grant. Further, while the Board may have the power to consider properly pleaded allegations of threatened pollution which are not inextricably tied to the permitting process (387 N.E. 2d 265), the pleadings in this action are insufficient to state such a cause of action. For example, the allegation that there will be insufficient equipment on site to properly construct the site is overly speculative. If the equipment indicated in the application is insufficient, other equipment could be used. Further, if the site is not properly developed, the Agency cannot authorize operation. Other allegations suffer from similar infirmities, do not specifically allege a threat of pollution, or are inextricably tied to the permitting process. Therefore, the proceedings in this matter are hereby dismissed.

The motion to file an amended complaint is hereby denied in that PCB 81-112 has been dismissed. The amended complaint will, however, be docketed as a new proceeding, PCB 81-155.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 8th day of October, 1981 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board