

ILLINOIS POLLUTION CONTROL BOARD
July 19, 1984

D. TIMOTHY EAKER AND)
CONNIE EAKER,)
)
Complainants,)
)
v.) PCB 84-80
)
COUNTY OF KANKAKEE AND)
BOURBONNAIS TOWNSHIP,)
)
Respondents.)

DISSENTING OPINION (by J. Anderson):

My reasons for dissent are partially answered by the explanatory information included in the Board Order to dismiss this citizen complaint. However, while I agree with the majority of the Board that this complaint should not be accepted "as is," I believe that the Board prematurely voted to dismiss.

When citizens file enforcement actions, especially when utilizing the Board's complaint form, the complaints often do not contain sufficient information.

Under these circumstances, I feel the Board should give the complainant an opportunity to perfect the complaint beforehand. The Board could have specified the deficiencies in a "more information" type Order that required a response by a date certain. Then dismissal could be considered. I feel this approach is preferable, for all concerned, either to a dismissal with an open-ended "leave to refile" or to allowing informationally borderline complaints to go to hearing.

Finally, in this case, where the Board's jurisdiction is admittedly unclear, I believe it is misleading to put the word "homeowners" in a context in the Board Order that implies that proper party respondents can only be "homeowners." The "cause or allow" language is broader than that and could even include, under certain circumstances, a governmental authority.

For these reasons, I dissent.


Joan G. Anderson

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 1st day of August, 1984.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board