ILLINOIS POLLUTION CONTROL BOARD
December 19, 2002

BARBARA and RONALD STUART,	)	
	)	
Complainants,	)	
	)	
v.	)	PCB 02-164
	)	(Citizens Enforcement - Noise)
FRANKLIN FISHER and PHYLLIS FISHER,	)	
	)	
Respondent.	)	

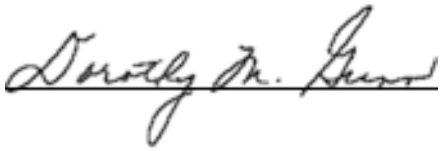
ORDER OF THE BOARD (by G.T. Girard):

On November 4, 2002, Barbara and Ronald Stuart (complainants) filed an amended complaint seeking to add Phyllis Fisher as a respondent in this proceeding. The complainants state that Phyllis Fisher is the legal owner of the site at issue in this proceeding and should be named as a respondent.

Section 31(d) of the Environmental Protection Act (415 ILCS 5/31(d) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002) allows any person to file a complaint with the Board. Section 31(d) further provides that "[u]nless the Board determines that such complaint is duplicative or frivolous, it shall schedule a hearing." *Id.*; *see also* 35 Ill. Adm. Code 103.212(a). A complaint is duplicative if it is "identical or substantially similar to one brought before the Board or another forum." 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests "relief that the Board does not have the authority to grant" or "fails to state a cause of action upon which the Board can grant relief." *Id.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicative or frivolous. 35 Ill. Adm. Code 103.212(b). Phyllis Fisher has filed no motion. No evidence before the Board indicates that complainants' complaint is duplicative or frivolous. As this case has previously been set for hearing the matter shall proceed as ordered by the hearing officer.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 19, 2002, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board