

ILLINOIS POLLUTION CONTROL BOARD  
November 10, 1976

JOHN TARKOWSKI, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 76-55  
 )  
 )  
 JAMES BELLI, LAKELAND PROPERTY )  
 OWNERS ASSOCIATION, INC., and )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondents. )

Mr. John Tarkowski, Complainant, appeared pro se;  
Mr. William Van Hagey of Chadwell, Kayser, Ruggles, McGee & Hastings,  
appeared on behalf of Respondents James Belli & the Lakeland Property  
Owners Association;  
Honorable William J. Scott, Attorney General, by Mr. James Dobrovolny  
appeared on behalf of Respondent, the Environmental Protection  
Agency.

OPINION AND ORDER OF THE BOARD (by Mr. Goodman):

This matter comes before the Pollution Control Board (Board)  
upon the Complaint filed by John Tarkowski on March 1, 1976,  
against Respondents James Belli, Lakeland Property Owners Association,  
and the Environmental Protection Agency (Agency). On April 8, 1976,  
the Board denied Motions to Dismiss filed by Respondents but on its  
own motion struck a considerable number of allegations in the  
Complaint. Hearing in this matter was held on June 15, 1976, at the  
Village Hall, Wauconda, Illinois. Mr. Tarkowski appeared pro se.

Mr. Tarkowski owns 16 acres of land in Wauconda, Lake County,  
Illinois. The Complaint alleged that Respondent Belli and  
Respondent Lakeland Property Owners Association dumped various  
chemicals into a 20-acre man-made lake located 300 feet from  
Mr. Tarkowski's property. The Complaint alleged that the dumping of

chemicals into the man-made lake caused fish to die, contaminated ground water supplies, overflowed into and polluted Slocum Lake and the Fox River. The Complaint also alleged that, although Tarkowski had complained to the Agency, the Agency had failed to investigate the source of constant smoke pollution emanating from the south of Tarkowski's property. All other allegations in the Complaint were stricken as beyond the jurisdiction of the Board.

The Board has reviewed the transcript, the many exhibits, the briefs, and the numerous motions submitted by the parties. Mr. Tarkowski has made many allegations, both at hearing and in the various documents submitted. The Board recognizes that Mr. Tarkowski had the burden of proving his own case without the aid of an attorney. However, the Board has been unable to find any evidence to support the contention that Respondents Belli and Lakeland Property Owners Association have caused water pollution, contaminated land and underground waters, destroyed or injured fish life, caused a health hazard or any of the other allegations in the Complaint. In addition, the Board has found no evidence of any request made to the Agency to locate a source of smoke and odor and, therefore, can find no failure of any duty on the Agency's part.

The Board notes that, although the transcript in this case is lengthy, the hearing focused almost exclusively on the question of soil erosion and flooding in the area of Mr. Tarkowski's property. Absent evidence of pollution or contamination, soil erosion and flooding are not matters over which the Board has jurisdiction.

Mr. Tarkowski did submit correspondence and financial statements of the Lakeland Property Owners Association spanning the years 1966-1974, which indicate that the Association applied chemicals to the lake for purposes of weed control (Tarkowski Exhibits #1-7). However, correspondence between the Agency and the Lakeland Property Owners Association indicates that the Lakeland Property Owners Association supplied the Agency with information on its weed control program in 1974. A June 29, 1974 letter from the Agency to the then Chairman of the Lakeland Property Owners Association indicates that the weed control program in which the Association was engaged was not in violation of the Act and that the Agency had no objection to the program (Respondents' Exhibit #6).

The Board finds that there has been no evidence presented in the present case upon which it may base a finding of violation. Mere allegations are insufficient to support such a finding. The Complaint against James Belli, the Lakeland Property Owners Association, and the Agency is, therefore, dismissed.

As a final matter, the Board will address several motions filed by the parties subsequent to hearing. Mr. Tarkowski's Motion for Order and Motion for Rehearing are hereby denied. The Motion of Respondents James Belli and the Lakeland Property Owners Association for an award of attorneys' fees and costs is also denied. The Board does not, as Respondents contend, find that the record demonstrates that the instant case was brought in bad faith.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

The Complaint filed on March 1, 1976, by John Tarkowski against James Belli, Lakeland Property Owners Association, and the Environmental Protection Agency is hereby dismissed.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 10<sup>th</sup> day of November, 1976 by a vote of 5-0.

  
\_\_\_\_\_  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board