

ILLINOIS POLLUTION CONTROL BOARD
September 20, 1979

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-130
)
 CITY OF JOLIET, a municipal)
 corporation,)
)
 Respondent.)

ORDER OF THE BOARD (by Mr. Young):

On August 15, 1979, the Environmental Protection Agency filed a Motion for Reconsideration and supporting Memorandum of Law to reexamine certain conclusions in our original Opinion on July 12, 1979. On August 12, 1979, the City of Joliet submitted a Response in opposition to the Agency's Motion.

On July 12, 1979, the Board dismissed Count IV of the Amended Complaint which alleged that the City of Joliet filed a false discharge monitoring report (DMR) in violation of Rule 910(f) of Chapter 3: Water Pollution Regulations and provisions of its NPDES permit. The Board dismissed Count IV finding that the count was defective.

The Agency has conceded that the Board was correct in finding Count IV defective; and furthermore, that the Board is without authority to hear criminal matters or to impose criminal sanctions. However, the Agency asserts that the Board, in dicta incorrectly concluded that the Board is without jurisdiction in matters concerning the submission of false information and false reports, and asks the Board to reconsider this matter.

After reviewing the Motion and the Memorandum, the Board will modify the Opinion of July 12, 1979, by striking therefrom the fourth paragraph on page two, which will remove the dicta which led to the Motion to Reconsider.


The Agency properly states in their Memorandum that the Attorney General (or a States Attorney) has undisputed discretion under the Act to bring civil actions before the Board or to file

civil or criminal cases in circuit court. However, the Attorney General may not confer upon the Board subject matter jurisdiction simply by the exercise of prosecutorial discretion.

Having reviewed the text of EPA v. City of Joliet, PCB 78-130 (July 12, 1979) concerning Count IV of the Complaint, the Board will hereby strike the fourth paragraph on the second page of that Opinion and it shall henceforth be held for naught.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 20th day of September, 1979, by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board