

ILLINOIS POLLUTION CONTROL BOARD

November 6, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
)
v.) PCB 74-471
)
WILFORD E. (ERNIE) JOHNSON and)
NORMA I. JOHNSON, d/b/a BYRON)
SALVAGE, JULIAN KULLBERG, d/b/a)
ROTO-ROTOR, INTERSTATE POLLUTION)
CONTROL, INC., and KULLBERG)
ENTERPRISES, INC.,)
Respondents.)

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

This matter comes before the Pollution Control Board (Board) upon the October 30, 1975, motion of Respondents Julian Kullberg, d/b/a Roto-Rotor, Interstate Pollution Control, Inc. (Roto-Rotor) and Kullberg Enterprises, Inc. (Kullberg), to dismiss Count V of the Amended Complaint, and W.E. Johnson and N.I. Johnson, d/b/a Byron Salvage's (Byron) October 29, Motion to Dismiss.


Respondents contend that this action is barred by the Statute of Limitations as set forth in Chapter 83, Section 15, Ill. Rev. Stat. However, Complainant has alleged that the violations herein are continuing. Therefore, regardless of whether said Statute may apply, two years have not passed since the violations alleged in the complaint occurred.

Respondents next contend that the complaint fails to state sufficient facts to constitute a course of action. The Board holds that the complaint is sufficient to put Respondents on notice of the nature of matters complained of adequate to reasonably allow preparation of a defense.

Respondents, Roto-Rotor and Kullberg, by filing their motion to dismiss, have conferred personal jurisdiction upon the Board.

In consideration of the foregoing, it is the Order of the Board that Respondents' Motions to Dismiss be and are, hereby, denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 6th day of November, 1975 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board