

ILLINOIS POLLUTION CONTROL BOARD

April 8, 1976

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

ORDER OF THE BOARD (by Mr. Goodman):

This matter comes before the Board upon the Motions to Dismiss filed by Respondents James Belli, Lakeland Property Owners and the Environmental Protection Agency (Agency) on March 15, April 2, and March 19, 1976, respectively. The Board finds that all three counts of the Complaint in this cause do contain sufficient allegations to warrant a hearing under the Environmental Protection Act (Act). Therefore, the Motions to Dismiss are denied.

However, the Board recognizes that a considerable number of the allegations and requests for relief in the Complaint are not within its jurisdiction or scope of authority under the Act. The Board, therefore, on its own motion hereby strikes the following portions of the Complaint. In Count I, the Board strikes: the legal conclusions in paragraph 1, which read "causing a public nuisance, a danger to health and loss of property value, in violation of Illinois Statutes Chapter 38 - Article 37"; all the allegations in paragraph 4 other than that Respondent has, as a result of maintaining the dam, destroyed fish, polluted fish, caused health hazards to human life and substantially contributed to State pollution problems; the allegations of paragraph 7 beginning with "and has caused the loss of hundreds of trees..." through the end of the paragraph; and subparagraphs (c) and (d) of paragraph 8. In Count II, the Board strikes paragraph 11. In Count III, the Board strikes

subparagraphs (a) 3., 4., 5., 6., and 7. of paragraph 14. In the prayer for relief in Count III, p. 9, the Board strikes the request in paragraph 1 that the Board appoint a grand jury and strikes subparagraphs (c), (d), (e), (f), (g), and (h) of paragraph 2.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 8th day of April, 1976 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board