

ILLINOIS POLLUTION CONTROL BOARD

May 29, 1974

CITIZENS FOR A BETTER ENVIRONMENT,)
an Illinois Not-for-Profit)
Corporation,)
)
Complainant,)
)
vs.) PCB 74-171
)
BULK TERMINALS COMPANY and)
GERALD SPAETH,)
)
Respondents.)

ORDER OF THE BOARD (by Mr. Henss)

This matter comes on to be heard on Respondent's Motion to Dismiss and their request to file briefs and argue the Motion orally. The essence of the Motion is found in paragraph 9:

"For the foregoing reasons, the complaint is duplicitous and frivolous and the Illinois Pollution Control Board has no jurisdiction over this controversy. Therefore, the Board is not required to hold a hearing in connection with this matter."

We find that the Complaint is not duplicitous or frivolous and that we do have jurisdiction. Therefore, we deny the Motion to Dismiss. On such a narrow legal issue we think that oral argument and written briefs are unnecessary. We note that some of the contentions which are raised in the Motion may be appropriate at another stage of the case and our ruling today is without prejudice to Respondent's right to raise the same points at a later date.

Since the Complaint is not duplicitous or frivolous and we do have jurisdiction we are required to schedule this matter for hearing and we have done so.

It is Ordered that the Respondent's Motion to Dismiss be denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted this 29th day of May, 1974 by a vote of 5 to 0.

Christan L. Moffett