

ILLINOIS POLLUTION CONTROL BOARD
February 25, 1993

LAKE COUNTY FOREST)
PRESERVE DISTRICT,)
)
Complainant,)
)
v.) PCB 92-80
) (Enforcement)
NEIL OSTRO, JANET OSTRO,)
and BIG FOOT ENTERPRISES,)
)
Respondents.)

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on complainant Lake County Forest Preserve's (Forest Preserve) February 16, 1993 motion to file first amended complaint. Forest Preserve states that the parties have agreed that Forest Preserve would file an amended complaint withdrawing certain trespass allegations, that Forest Preserve has also withdrawn two of the six violations alleged in the original complaint in order to conform with the evidence, and that the first amended complaint contains no new allegations. The motion to file the first amended complaint is granted.

In addition, there are three other motions currently pending before the Board. These motions--a motion to quash subpoena, a motion for discovery sanctions, and a motion for directed finding--were referred to the Board by the hearing officer on January 21, 1993. The motion to quash subpoena was filed by American States Insurance Company, and seeks to quash a subpoena served by Forest Preserve on an American States claims adjustor. That subpoena called for the claims adjustor to appear for deposition, and to bring all "correspondence, notes, memoranda, claims, tenders, insurance policies, certificates of insurance, and all other documents" related in any way to the respondents in this case. American States contends that the subpoena seeks irrelevant and privileged information, and has raised claims of attorney-client privilege and work product privilege. American States has not provided any of the documents claimed to be privileged. The hearing officer conducted a hearing on the motion to quash subpoena on January 20, 1993, at which all parties presented their arguments on that motion.

The Board notes that in its brief, filed February 16, 1993, Forest Preserve makes no reference to the outstanding motion to quash subpoena, and does not contend that the lack of the information requested by that subpoena has prevented it from proving its claims, or that an additional hearing might be necessary if the documents withheld by American States are found to be outside the scope of the claimed privileges. Thus, the

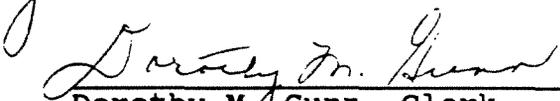
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Board is unclear whether the information which was the subject of the subpoena is still at issue. Forest Preserve is directed to inform the Board whether or not it still seeks the information requested by the challenged subpoena. Forest Preserve's response to this order shall be filed with the Board by March 8, 1993.

Finally, the Board notes that we will decide the motions for discovery sanctions and for directed finding when we enter our final decision in this case.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 25th day of February, 1993, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board