

ILLINOIS POLLUTION CONTROL BOARD
March 17, 1994

JAY AGUILAR,)
)
 Complainant,)
)
 v.) PCB 94-75
) (Enforcement)
)
 THE CITY OF WOOD DALE,)
)
 Respondent.)

ORDER OF THE BOARD (by E. Dunham):

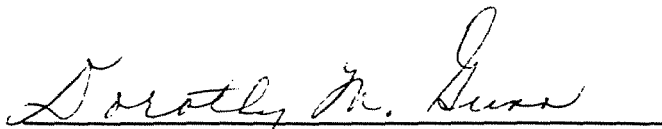
This matter comes before the Board on a motion to dismiss filed by the City of Wood Dale on March 4, 1994. On March 15, 1994, Mr. Aguilar filed a response to the motion to dismiss. The complaint in this matter was filed on February 25, 1994. The complaint alleges violation of Sections 12(a), 12(d), 21(a), 21(e) and 21(p)(4) of the Environmental Protection Act (415 ILCS 5/12(a), 12(d), 21(a), 21(e) and 21(p)(4) (1992)).

The City of Wood Dale seeks dismissal on the basis that the complaint fails to allege specific facts so as to allow the respondent to properly respond. Mr. Aguilar contends that information contained in the complaint shows a) what activity is causing the pollution, b) what violations are alleged to have occurred, c) the type of alleged pollution and d) where the materials are being discharged.

The Board finds that the complaint is insufficient in that it does not provide adequate information concerning the alleged violations. The complaint does not provide sufficient information to determine the nature of the complaint such as dates or locations of the alleged violations. However, the Board declines to dismiss the complaint at this time and will allow Mr. Aguilar to amend the complaint with the specifics of the allegations as required by 35 Ill. Adm. Code 103.122(c). The complaint as amended shall be filed with the Board by April 18, 1994. Failure to file an amended complaint may subject this matter to dismissal.

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 17th day of March, 1994, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board