

Qui Tam:

'A great way to go after polluters'

Corporation X is throwing pollutants into Salt Creek. County, district and U.S. Attorneys choose not to file suit though the corporation's actions are adversely affecting the Lincoln community.

What road is left open to the individual citizen?

The House Subcommittee on Conservation and Natural Resources has just completed a report which advises the citizen how to use Qui Tam, an old legal principle, and an 1899 law to sue local polluters.

Qui Tam allows the individual citizen to file suit in the government's name against law breakers and then to collect half of the fine for a conviction.

The Refuse Act of 1899 forbids anyone or any group from throwing pollutants into U.S. waters without a permit. Relatively few permits have been issued by the U.S. Army Corps of Engineers, a College Press Service release said.

The CPS release also stated that even industries who have permits often violate them by dumping untreated discharges into the waters.

Conviction in a suit against a neighborhood polluter would net a fine of not more than \$2500 nor less than \$500 for

each day's violation. The citizen who brought suit would get half. The polluter could also receive a 30-day to one-year jail sentence.

The subcommittee's report, "Qui Tam Actions and the 1899 Refuse Act: Citizen Lawsuits Against Polluters of the Nation's Waterways," cites legal precedent and tells the citizen how to collect evidence and file the suit.

Carl Chloupek, head of the Nebraska Federal Water Pollution Control Administration, has already written for information on the report "in anticipation." The report can also be obtained from the U.S. Government Printing Office, Washington D.C. 20402, for 15 cents.

No Nebraska citizen or environmental group has as yet filed suit to Chloupek's and other sources' knowledge.

Rep. Henry Reuss (D-Wis.), chairman of the subcommittee on Conservation and Natural Resources, has filed Qui Tam actions against four companies in Milwaukee. Actions have also been filed recently by a Seattle attorney and a bass fishermen's organization in Alabama.

"This is a beautiful project for college students and

ecology groups," Clem Dinsmore, legal assistant of the Conservation and Natural Resources Subcommittee, asserted. "It's a great way to go after polluters."

Prior to the subcommittee's report, suits against polluters in Nebraska had to be filed by the county or district attorney under public nuisance laws, Gary J. Snowden, administrative assistant to the Nebraska Environmental Health Service and Water Pollution Control, said.

"The county or district attorney could decide whether or not to initiate action against an alleged industrial polluter," he added. "Sometimes they choose not."

Snowden also noted that an individual could always file a civil suit if individual injury was involved.

"But recently states such as Michigan and Illinois have passed laws which allow a private citizen to file suit on behalf of the general public. Nebraska has no such law now," he said.

Environmentalists interest in the Qui Tam principle increased because of recent actions of the Nixon Administration

through the Justice Department.

The 1899 Act stated that suits against polluters should be filed by the government. But in July the Justice Department issued "Guidelines for Litigation Under the Refuse Act."

The statement urged U.S. Attorneys to use the 1899 law "to punish or prevent significant discharges, which are either accidental or infrequent, but which are not of a continuing nature resulting from the ordinary operations of a manufacturing plant."

Reaction from many environmentalists was scathing, the CPS release said.

Wisconsin Congressman Reuss, for example, complained that the Justice Department's "limited enforcement" doctrine "favors the polluter over the public's interest in preventing the pollution of our waterways."

Many environmentalists see

the emergence of the Qui Tam principle as a way to increase individual citizen involvement in water pollution law enforcement and prevention, the CPS release said. "Many believe this will be a vital gain."

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