

ILLINOIS POLLUTION CONTROL BOARD  
January 9, 1986

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 85-31  
 )  
PRODUCTION FINISHERS AND )  
FABRICATORS, INC. )  
 )  
Respondent. )

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

On November 19, 1985 Respondent moved to dismiss this enforcement action for failure of the Illinois Environmental Protection Agency to comply with mandatory language of the Environmental Protection Act which requires that a statement that financing may be available to correct violations accompany any complaint. Ill. Rev. Stat. 1983, ch. 111-1/2, par. 1031(a). The Agency responded to the motion at the hearing conducted in this matter on November 26, 1985. (R. at 9-10). The hearing officer erroneously dismissed the motion in contravention of 35 Ill. Adm. Code 103.140(a) and (e) which requires that all motions to dismiss be ruled upon by the Board. (R. at 17).

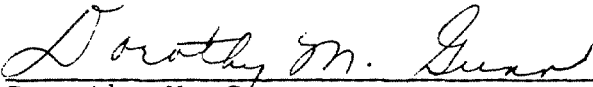
The Board finds that compliance with the requirement of Section 1031(a) is a jurisdictional prerequisite for the proper filing of an enforcement case before the Board. Accordingly, the motion to dismiss is granted and this matter is dismissed without prejudice.

IT IS SO ORDERED.

J. Anderson concurred.

J. D. Dumelle and R. C. Flemal dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 9<sup>th</sup> day of January, 1986, by a vote of 5-2.

  
Dorothy M. Gunn  
Illinois Pollution Control Board