

ILLINOIS POLLUTION CONTROL BOARD
January 19, 1978

OWENS-ILLINOIS, INC.,)
)
Petitioner,)
)
v.) PCB 77-288
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by Mr. Young):

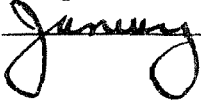

On December 23, 1977, Respondent Environmental Protection Agency filed an Answer to the First Amended Petition for Appeal of Permit Denial and a Counterclaim for Permit Revocation. Petitioner filed a Motion to Strike the Counterclaim on January 4, 1978; a response to the Motion to Strike was filed on January 11, 1978.

The Procedural Rules of the Board set forth in Rule 503(a) the form of action for any person seeking revocation of a permit which is an enforcement proceeding governed by Part III of the Rules and commenced by service of notice and formal complaint in accordance with Rules 304 and 305. To allow the Counterclaim would in effect be an amendment to our Procedural Rules which we decline as unnecessary; the remedy sought is available within the express provisions of the Rules.

The Counterclaim is refused as a defective pleading in that it does not conform to procedural requirements of the Board as established by our Rules. Nothing herein shall be construed to bar the filing of a proper complaint seeking revocation of any permit now issued to the Petitioner herein and the refusal of the Board to accept the Counterclaim is not an adjudication on the merits of the allegations, facts or issues set forth therein.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 19th day of January, 1978 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board