

ILLINOIS POLLUTION CONTROL BOARD  
November 10, 1976

WINNETKANS INTERESTED IN )  
PROTECTING THE ENVIRONMENT )  
(WIPE), )  
 )  
Complainant, )  
 )  
v. ) PCB 76-215  
 )  
ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
Respondent. )

OPINION AND ORDER OF THE BOARD (by Mr. Young):

Complainant's Motion, filed on October 18, 1976, seeking reconsideration of our Order dismissing the Complaint in this matter is hereby denied. In accordance with Procedural Rule 306, however, the Board will set forth the reasons for dismissal. The Complaint is composed basically of seven allegations lettered 4(a) through 4(g).

The Board finds that the substance of allegations 4(a), 4(b), 4(c), 4(d) and 4(f) are duplicitous of the matter now before the Board in WIPE v. The Village of Winnetka (PCB 75-363). The Board believes that the most expeditious and complete resolution of the entire controversy, i.e., whether or not certain boilers owned and operated by the Village of Winnetka are operating in violation of the emission limitations prescribed by the Regulations and if the requisite permits have been issued in accordance with the Act and Regulations, will be accomplished by appropriate pleading and proof in that case.

The Board finds allegation 4(e) frivolous in that no facts are alleged which indicate how an alleged agreement between WIPE and the Village of Winnetka binds the Environmental Protection Agency. Totally absent are any facts showing that the Agency was a party to the alleged agreement or had a duty, as a matter of law, not to consider a stack test submitted in support of a permit application until all possible interested persons had assented to Agency consideration of such test.

The Board finds allegation 4(g) frivolous in that it recites the bare conclusion that the Agency issued a permit as the result of improper pressure, undue influence and actual or implied

threats of economic and political reprisal. A mere averment that an act was done with a certain purpose or intent is a conclusion of law and is not a sufficient allegation. Complainant admits inability to plead with greater specificity because of the lack of any facts on which to base the allegation. The Board believes that any complaint which it sets for hearing must be based on something considerably more substantial than an unsupported recital of a mere suspicion of irregularity. The Board further believes that the pertinent part of Section 31(b) of the Act relating to the Board's determination of whether or not a complaint is duplicitous or frivolous was specifically included in the Act to prevent the possibility of harrassment which could flow from such an allegation as the one in question here. Finally, because of the deficiency in allegation 4(g) which compels our dismissal, it is unnecessary for us to determine whether the Board has jurisdiction to hear such a matter if sufficient facts were alleged, or whether such a matter is properly within the criminal jurisdiction of the circuit court.

Complainant's Motion for Reconsideration is denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 10<sup>th</sup> day of November, 1976 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board