

ILLINOIS POLLUTION CONTROL BOARD  
February 19, 1976

WINNETKANS INTERESTED IN PROTECTING )  
THE ENVIRONMENT (WIPE), )  
 )  
Petitioner, )  
 )  
v. ) PCB 75-363  
 )  
VILLAGE OF WINNETKA, )  
 )  
Respondent. )

INTERIM ORDER OF THE BOARD (by Mr. Young):

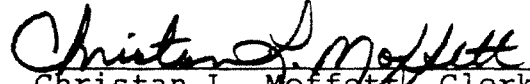
On January 21, 1976, Winnetka filed its Motion to Dismiss, based on the recent decision of the Illinois Supreme Court in Commonwealth Edison Company v. Pollution Control Board, Docket No. 47352, decided January 20, 1976, in which the Court affirmed the judgment of the Appellate Court, First District, reversing the adoption of Rule 203(g)(1) of the Air Rules.

The Complaint, filed September 16, 1975, by Winnetkans Interested in Protecting the Environment (WIPE), alleged that Winnetka operated Boiler No. 8 from May 31, 1975 until July 1, 1975 in violation of Rule 203(g)(1)(a), and has operated said boiler without an operating permit from May 30, 1975, in continuing violation of Rule 103(b)(2) and Section 9(b) of the Act.

That portion of the Complaint alleging violation of Rule 203(g)(1)(a) is dismissed as moot. However, that portion of the Complaint dealing with the operating permit violation has not been mooted by the decision of the Court. Winnetka is required to have an operating permit under Rule 103(b)(2), and the aforesaid decision does not affect this obligation. Furthermore, the exact reason(s) the operating permit has not been issued, if in fact it has not, has yet to be determined. Even if it were established that the permit was not issued solely on the basis that Winnetka had failed to comply with Rule 203(g)(1)(a), such fact would not constitute a defense but would be considered solely in mitigation. The portion of the Complaint relating to violation of Section 9(b) of the Act and Rule 103(b)(2) shall be set for hearing.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Order was adopted on the 19<sup>th</sup> day of February, 1976 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board