

ILLINOIS POLLUTION CONTROL BOARD
November 6, 1975

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 75-362
)
)
 WHEATON SANITARY DISTRICT,)
 a municipal corporation,)
)
 Respondent.)

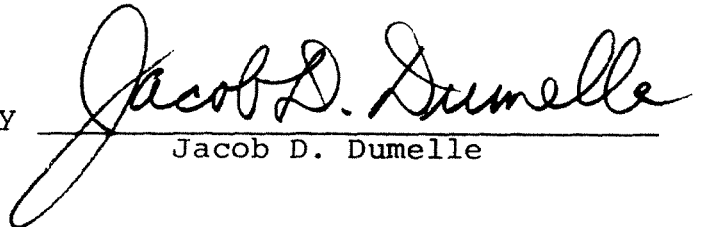
DISSENTING OPINION (by Mr. Dumelle):

On November 6, 1975 the Board dismissed the above-captioned complaint for procedural inadequacy because Complainant brought an action before the Board rather than an Order in Circuit Court seeking to enforce a prior Order of the Board (See EPA v. Wheaton Sanitary District, PCB 74-351 (June 6, 1975)). I dissented on the grounds that the enforcement case should have proceeded to Hearing.

The above complaint alleges that the Respondent has caused a violation of Section 9(a) of the Illinois Environmental Protection Act by causing excessive odors on dates not covered by the prior Board Opinion. In addition the Complaint as amended refers to equipment other than the digester in paragraph 4 and 5. My reading of the prior Board Order leads me to believe that there is a significant question concerning the enforceability of that Order and its scope beyond a finding that the odor problem was caused by something other than a digester upset.

For these reasons I would have denied the Motion to Dismiss filed by Respondent and ordered the case set for hearing.

Submitted by


Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 19th day of November, 1975.


Christan L. Moffett, Clerk