

ILLINOIS POLLUTION CONTROL BOARD  
August 28, 1975

ENVIRONMENTAL PROTECTION AGENCY, )  
)  
Complainant, )  
)  
)  
v. ) PCB 75-22  
)  
)  
FREEMAN UNITED COAL MINING COMPANY, )  
a Division of MATERIAL SERVICE )  
CORPORATION, a Delaware Corporation, )  
and THE METROPOLITAN SANITARY )  
DISTRICT OF GREATER CHICAGO, )  
)  
Respondents. )

ORDER OF THE BOARD (by Mr. Dumelle):

The Motion to Strike filed by The Metropolitan Sanitary District of Greater Chicago on August 8, 1975 is granted in part. The words "a Metropolitan Sanitary District of Greater Chicago" are stricken from paragraph 3 of Count I of the Amended Complaint and from paragraphs (1) and (2) of the prayer of Count I of the Amended Complaint.

Paragraph (13) of Count II of the Amended Complaint is stricken.

The request to strike Paragraphs 1 through 10 of Count II is denied.

Paragraph 13 of Count II is stricken because it alleges a violation of Section 12(f) of the Environmental Protection Act for discharging contaminants without a National Pollutant Discharge Elimination System (NPDES) permit issued by the Illinois Environmental Protection Agency. We find that the Board does not have jurisdiction to consider such an allegation prior to the date the Administrator of the U.S. Environmental Protection Agency approves pursuant to the Federal Water Pollution Control Act, the Illinois request to administer the NPDES permit system. Until Illinois has the authority

to administer the NPDES permit system, the Board is without jurisdiction to compel a discharger to obtain an NPDES permit.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 28<sup>th</sup> day of August, 1975 by a vote of 3-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board