

ILLINOIS POLLUTION CONTROL BOARD
April 24, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 74-473
)
 E & E HAULING, INC.,)
 an Illinois corporation,)
)
 Respondent,)

Richard W. Cosby, Assistant Attorney General, appeared for the Complainant;
Henry M. Schaffer, Attorney, appeared for the Respondent.


ORDER OF THE BOARD (by Mr. Zeitlin)

On March 31, 1975, the Attorney General filed for the Environmental Protection Agency a Motion for Leave to File an Amended Complaint. This Motion was filed shortly after this Board, on March 26, 1975, had entered a final Opinion and Order in this case.

When the Board has previously reached a final decision, a Motion for Leave to file an Amended Complaint is moot when filed, and cannot properly be granted by this Board. This is true even in this matter, where Respondent E & E, in a pleading filed before the Board on April 4, 1975, has stated that it would have no objection to such an amendment. Rather, the proper avenue by which the Attorney General might obtain the relief which it seeks would be the filing of a Motion under Board Procedural Rule 334. That rule governs Motions filed subsequent to the entry of a final order by the Board. While this Board does not favor the disposition or final determination of any matter solely on the grounds of defective pleadings, we could not grant this Motion without undertaking considerable and tenuous interpretation of the Motion to determine that the Attorney General indeed intended it to be one under Rule 334. The Motion must therefore be denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 24th day of April, 1975 by a vote of 4 to 0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board