

ILLINOIS POLLUTION CONTROL BOARD
September 20, 2007

GEORGE R. STRUNK,)
)
 Complainant,)
)
 v.) PCB 07-135
) (Citizens Enforcement – Air, Noise,
 WILLIAMSON ENERGY LLC (POND) Water)
 CREEK MINE #1),)
)
 Respondent.)

ORDER OF THE BOARD (by A.S. Moore):

On June 11, 2007, George R. Strunk (Strunk) filed a citizens enforcement complaint against Williamson Energy, LLC (Williamson Energy). See 415 ILCS 5/31(d)(1) (2006); 35 Ill. Adm. Code 103.204. The complaint alleges that Williamson Energy has violated Sections 8, 9(a), 9(b), 9.5(c), 12(a), 12(b), 12(c), 23, and 24 of the Environmental Protection Act (Act) (415 ILCS 5/8, 9(a), 9(b), 9.5(c), 12(a), 12(b), 12(c), 23, 24 (2006)) and also alleges a violation relating to light in the operation of a Williamson County coal mining facility. On July 5, 2007, Williamson Energy filed a motion to dismiss claiming that, as a result of various procedural and substantive deficiencies, the complaint fails to comply with Board regulations. Strunk did not respond to the motion.

For the reasons described below, the Board partially grants and partially denies Williamson Energy's motion to dismiss. In order to address identified deficiencies in Strunk's complaint, the Board also directs Strunk to file within 30 days an amended complaint complying with applicable requirements including those contained in the Board's procedural rules. 35 Ill. Adm. Code 103.204.

Below, the Board first provides the procedural history of this case, the applicable statutory provisions, and a summary of the allegations in the complaint. The Board next summarizes Williamson Energy's arguments in the motion to dismiss. The Board then analyzes those arguments before deciding Williamson Energy's motion.

PROCEDURAL HISTORY

On June 11, 2007, Strunk filed a citizens enforcement complaint (Comp.). On July 5, 2007, Williamson Energy filed a motion to dismiss (Mot.).

In an order dated August 9, 2007, the Board directed Strunk to file either a sworn certificate of service or other proof of service on Williamson Energy by Monday, September 10, 2007, or face dismissal of this proceeding. On August 15, 2007, Strunk filed a sworn certificate

of service stating that he had served Williamson Energy by personally serving a Mr. Plumley on June 5, 2007.

STATUTORY BACKGROUND

Section 8 of the Act provides that

The General Assembly finds that pollution of the air of this State constitutes a menace to public health and welfare, creates public nuisances, adds to cleaning costs, accelerates the deterioration of materials, adversely affects agriculture, business, industry, recreation, climate, and visibility, depresses property values, and offends the senses.

It is the purpose of this Title to restore, maintain, and enhance the purity of the air of this State in order to protect health, welfare, property, and the quality of life and to assure that no air contaminants are discharged into the atmosphere without being given the degree of treatment or control necessary to prevent pollution. 415 ILCS 5/8 (2006).

Section 9(a) of the Act provides that no person shall

[c]ause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act. 415 ILCS 5/9(a) (2006).

Section 9(b) of the Act provides that no person shall

[c]onstruct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit. 415 ILCS 5/9(b) (2006).

Section 9.5(c) of the Act provides that

[t]he Board, pursuant to Title VII, shall promulgate a list of toxic air contaminants. The list published under this subsection shall include any air contaminant which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or may pose a significant threat to human health or the environment. The Agency shall propose to the Board for adoption a list which meets the requirement of this subsection.

The provisions of subsection (b) of Section 27 of this Act shall not apply to rulemakings under this subsection (c). 415 ILCS 5/9.5(c) (2006).

Section 12(a) of the Act provides that no person shall

[c]ause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act. 415 ILCS 5/12(a) (2006).

Section 12(b) of the Act provides that no person shall

[c]onstruct, install, or operate any equipment, facility, vessel, or aircraft capable of causing or contributing to water pollution, or designed to prevent water pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit. 415 ILCS 5/12(b) (2006).

Section 12(d) of the Act provides that no person shall “[d]eposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.” 415 ILCS 5/12(d) (2006).

Section 23 of the Act provides that

The General Assembly finds that excessive noise endangers physical and emotional health and well-being, interferes with legitimate business and recreational activities, increases construction costs, depresses property values, offends the senses, creates public nuisances, and in other respects reduces the quality of our environment.

It is the purpose of this Title to prevent noise which creates a public nuisance. 415 ILCS 5/23 (2006).

Section 24 of the Act provides that

[n]o person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity, so as to violate any regulation or standard adopted by the Board under this Act. 415 ILCS 5/24 (2006).

SUMMARY OF COMPLAINT

Strunk first alleges that, in the course of operating a coal mine, prep plant, and shipping facility, Williamson Energy has caused pollution in the form of “dust from coal stack & refuse pile & haulage roads around mine site.” Comp. at 3. Second, Strunk alleges that Williamson

Energy has contaminated water with run-off from its coal stack and refuse. *Id.* Third, Strunk alleges that Williamson Energy causes noise pollution in the operation of belts, transfer points, mobile equipment, trucks, and trains. *Id.* Strunk also claims that Williamson Energy causes light pollution by directing lights from the mine site toward his home. *Id.*

Strunk claims that the pollution he alleges began “when mine construction started and it has gotten worse since coal production has started.” Comp. at 3. Regarding the consequences of the alleged pollution, Strunk first claims that coal dust harms human, animal, and plant life and also harms the finish on homes, barns, and automobiles. *Id.* Second, Strunk expresses the belief that runoff “is causing water pollution to creeks and waterways.” *Id.* at 2. Third, Strunk characterizes noise as “very disturbing at all times of day and night when mine is operating.” *Id.* Strunk further states that “[t]he noise disturbs our peaceful atmosphere we once knew causing unrest and stress on humans and wildlife.” *Id.* at 3. Fourth, Strunk claims that light is directed toward his home nightly, “making it difficult to sleep or enjoy the night sky.” *Id.* at 2. Strunk further claims that “[t]he lights keep me awake often and invade my privacy.” *Id.* at 3.

As relief from the violations he has alleged, Strunk states that he seeks to have the Board “order mining operation to be stopped until all my complaints are corrected thereby giving me back the safe environment I had before the mine started.” Comp. at 4.

WILLIAMSON ENERGY’S MOTION TO DISMISS

In its motion to dismiss, Williamson Energy argues that Strunk’s complaint is procedurally and substantively deficient and should be dismissed in its entirety on those bases. Mot. at 5-6. Below, the Board first summarizes each of Williamson Energy’s arguments regarding the substance of Strunk’s complaint before addressing its arguments regarding procedural requirements.

Substantive Requirements

Williamson Energy argues that the Board’s procedural rules provide minimum substantive requirements that a complaint must meet. Mot. at 2. Williamson Energy further argues that these requirements are intended to provide a respondent with information sufficient for the preparation of a defense. Mot. at 3, citing *Stanhibel v. Halat*, PCB 07-17, slip. op. at 5 (Mar. 1, 2007); *see* 35 Ill. Adm. Code 103.204(c)(2). Williamson Energy claims that the complaint must refer to the legal authorities that the respondent has allegedly violated. *Id.* at 2-3, citing 35 Ill. Adm. Code 103.204(c)(1). Williamson Energy further claims that the complaint must specify “the dates, location, events, nature, extent, duration, and strength of the discharges or emissions.” *Id.* at 3, citing 35 Ill. Adm. Code 103.204(c)(2). Claiming that Strunk has failed to specify these legal and factual grounds, Williamson Energy argues that Strunk’s complaint is “clearly deficient.” Mot. at 2-3.

Below, the Board summarizes Williamson Energy’s arguments regarding each of the authorities and allegations cited in Strunk’s complaint.

Section 8

Williamson Energy notes that Strunk first alleges a violation of Section 8 of the Act. Mot. at 3; *see* 415 ILCS 5/8 (2006). Williamson Energy argues that Section 8 “is merely a ‘legislative declaration’ and cannot serve as the basis of a violation.” Mot. at 3, citing Metz v. U.S. Postal Serv., et al., PCB 98-18, slip op. at 1 (Sept. 23, 1999). Williamson Energy argues that references to Section 8 should be struck from the complaint and that “the Complaint should be dismissed for failing to sufficiently plead a cause of action under Section 8 of the Act.” Mot. at 3.

Section 9

Williamson Energy argues that Strunk has alleged a violation of Section 9.2(b) of the Act. Mot. at 3; *see* 415 ILCS 5/9.2(b) (2006). Noting that this section addresses emissions of sulfur dioxide from coal-burning stationary sources, Williamson Energy argues that it “has no application to Respondent.” Mot. at 3. Williamson Energy argues that references to Section 9.2(b) should be struck from the complaint and that “the Complaint should be dismissed for failing to sufficiently plead a cause of action under Section 9.2(b) of the Act.” *Id.*

Section 9.5(c)

Williamson Energy argues that Strunk has alleged a violation of Section 9.5(c) of the Act. Mot. at 3; *see* 415 ILCS 5/9.5(c) (2006). Williamson Energy argues that Section 9.5(c) “is merely a ‘legislative finding’ and cannot serve as the basis of a violation.” Mot. at 3-4, citing Metz v. U.S. Postal Serv. and Bradley Real Estate, PCB 98-18, slip op. at 1 (Sept. 23, 1999). Williamson Energy argues that references to Section 9.5(c) should be struck from the complaint and that “the Complaint should be dismissed for failing to sufficiently plead a cause of action under Section 9.5(c) of the Act.” Mot. at 4.

Section 12

Williamson Energy claims that Strunk has alleged violations of Sections 12(a), 12(b), and 12(c) of the Act, which pertain to water pollution. Mot. at 4; *see* 415 ILCS 5/12(a), 12(b), and 12(c) (2006); Comp. at 2. Williamson Energy argues that, although Strunk’s allegations refer to run off causing water pollution, the complaint does not allege any dates on which such run off occurred, does not identify any creek or other waterway alleged to have been polluted, and does not describe the nature or extent or consequences of any discharge. Mot. at 4; *see* Comp. at 3. Williamson Energy argues that, because the complaint lacks this information, it fails to comply with the Board’s procedural rules. Mot. at 4, citing 35 Ill. Adm. Code 103.204(c)(2). Williamson Energy further argues that, in the absence of that information, it “has no ability to even begin to mount a defense.” Mot. at 4. Williamson Energy claims that references to Sections 12(a), 12(b), and 12(c) should be struck from the complaint and that “the Complaint should be dismissed for failing to sufficiently plead a cause of action under Section 12 of the Act.” Mot. at 4.

Section 23

Williamson Energy notes that Strunk alleges a violation of Section 23 of the Act. Mot. at 3; *see* 415 ILCS 5/23 (2006). Williamson Energy argues that Section 23 “is merely a ‘legislative declaration’ and cannot serve as the basis of a violation.” Mot. at 4, citing Metz v. U.S. Postal Serv. and Bradley Real Estate, PCB 98-18, slip op. at 1 (Sept. 23, 1999). Williamson Energy argues that references to Section 23 should be struck from the complaint and that “the Complaint should be dismissed for failing to sufficiently plead a cause of action under Section 23 of the Act.” Mot. at 4.

Section 24

Williamson Energy claims that Strunk has alleged a violation of Section 24 of the Act, which pertain to water pollution. Mot. at 5; *see* 415 ILCS 5/24 (2006); Comp. at 2. Williamson Energy argues that, although Strunk’s allegations refer to plant operations and mobile equipment such as back up alarms, trucks, and trains, the complaint does not allege any dates on which noise occurred, does not identify specific operations, and does not describe the nature or extent or consequences of any noise emission. Mot. at 5; *see* Comp. at 3-4. Williamson Energy argues that, because the complaint lacks this information, it fails to comply with the Board’s procedural rules. Mot. at 5, citing 35 Ill. Adm. Code 103.204(c)(2). Williamson Energy further argues that, lacking such information, it “has no ability to even begin to mount a defense.” Mot. at 5.

Williamson Energy claims that the factual allegations required by the Board’s procedural rules are “particularly important here where many of the items apparently at the heart of Complainant’s Complaint may be exempt from noise regulation.” Mot. at 5. Specifically, Williamson Energy suggests that it may be able to invoke exemptions for emergency warning devices, horns, and trains and other mobile equipment. *Id.*, citing 35 Ill. Adm. Code 901.107(b) (exceptions), 902.124 (horns and other warning devices), 902.140 (exceptions). Williamson Energy argues that, “[e]ven if such noises were regulated, because Respondent cannot identify with ant particularity the source of the alleged noise, it has no means of identifying additional parties or entities that may be responsible for the noise, such as a variety of motor carriers.” Mot. at 5. Williamson Energy argues that references to Section 24 should be struck from the complaint and that “the Complaint should be dismissed for failing to sufficiently plead a cause of action under Section 24 of the Act.” Mot. at 5.

Light

Williamson Energy states that “the Complainant mentions problems with ‘lights’ but fails to identify any Section of the Act that might be violated by light emissions.” Mot. at 5. Williamson Energy argues that references to violations related to light should be struck from the complaint and that “the Complaint should be dismissed for failing to sufficiently plead a cause of action.” Mot. at 5.

Procedural Requirements

Williamson Energy argues that the Board's procedural rules require a complainant to include specific language either in the complaint or the accompanying notice:

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney." Mot. at 2, citing 35 Ill. Adm. Code 103.204(f).

Although Williamson Energy acknowledges that Strunk attached a note to his complaint, it states that the note does not mention that the Board's rules require an answer within 60 days. Mot. at 2, citing Mot., Exh. 1. Williamson Energy also argues that the note failed to mention that the respondent could file a motion to dismiss within 30 days and that the note indicated only that a motion alleging that the complaint is frivolous or duplicative could be filed within two weeks. Mot. at 2; *see* Mot., Exh. 1. Williamson Energy argues that "[g]iven these clear deficiencies, the Complaint must be dismissed." Mot. at 2, citing Stanhibel v. Halat, PCB 07-17 (Mar. 1, 2007).

BOARD ANALYSIS

Under Section 101.500(d) of the Board's procedural rules, "[w]ithin 14 days after service of a motion, a party may file a response to the motion. If no response is filed, the party will be deemed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion." 35 Ill. Adm. Code 101.500(d). Strunk filed no response to Williamson Energy's motion to dismiss. Because the Board is not bound by Strunk's failure to respond, the Board below first addresses its standard of review before addressing the authorities and allegations in the complaint and the motion to dismiss.

Standard of Review

Caselaw clearly establishes the Board's standard of review. The Board takes all well-pled allegations in the complaint as true in determining a motion to dismiss. Import Sales, Inc. v. Continental Bearings Corp., 217 Ill. App. 3d 893, 900, 577 N.E. 2d 1205, 1210 (1st Dist. 1991) (citations omitted); People v. Sheridan Sand & Gravel Co., PCB 06-177, slip op. at 4 (Sept. 7, 2006), People v. Pattison Associates, LLC and 5701 S. Calumet, L.L.C., PCB 05-181, slip op. at 4 (Sept. 15, 2005), People v. Stein Steel Mills Services, Inc., PCB 02-1, slip op. at 1 (Nov. 15, 2001), Shelton v. Crown, PCB 96-53 (May 2, 1996), Krautsack v. Patel, PCB 95-143, slip op. at 2 (June 15, 1995), Miehle v. Chicago Bridge and Iron Co., PCB 93-150, slip op. at 5 (Nov. 4, 1993).

"[D]ismissal of the complaint is proper only if it is clear that no set of facts could be proven that would entitle complainant to relief." People v. Sheridan Sand & Gravel Co., PCB 06-177, slip op. at 4 (Sept. 7, 2006); *see also* People v. Pattison Associates, LLC and 5701 S. Calumet, L.L.C., PCB 05-181, slip op. at 4 (Sept. 15, 2005), People v. Stein Steel Mills Services, Inc., PCB 02-1, slip op. at 1 (Nov. 15, 2001); Shelton v. Crown, PCB 96-53 (May 2, 1996);

Krautsack v. Patel, PCB 95-143, slip op. at 2 (June 15, 1995), Miehle v. Chicago Bridge and Iron Co., PCB 93-150, slip op. at 5 (Nov. 4, 1993).

Substantive Requirements

Section 8

Section 8 of the Act states legislative findings and purposes. *See* 415 ILCS 5/8 (2006); Bogacz v. Commonwealth Edison Co., PCB 96-47, slip op. at 2 (Nov. 16, 1995). Section 8 does not contain prohibitions that can be violated (Loschen v. Grist Mill Confections, Inc., PCB 97-174 (June 5, 1997)), and it does not create a cause of action (Johnson v. ADM, PCB 98-31, slip op. at 1 n.1 (Jan. 7, 1999)). Accordingly, the Board grants Williamson Energy's motion to dismiss with regard to any allegation of a violation of Section 8.

Section 9

Claiming that Strunk has alleged a violation of Section 9.2(b) of the Act, Williamson Energy notes that this provision addresses emissions of sulfur dioxide from coal-burning stationary sources. Mot. at 3; *see* 415 ILCS 5/9.2(b) (2006). Having reviewed Strunk's handwritten complaint, the Board is convinced that Strunk alleges a violation of Sections 9(a) and 9(b) of the Act, each of which prohibits acts pertaining to air pollution. *See* Comp. at 2; *see also* 415 ILCS 5/9(a), 9(b) (2006).

With regard to air pollution, Strunk's complaint makes two allegations. First, when asked to describe specifically the type and location of the alleged pollution, Strunk stated "Dust from coal stack & refuse pile & haulage roads around mine site. Smell." Comp. at 3. Second, when asked to describe specifically the duration and frequency of the alleged pollution, Strunk stated "I first noticed when mine construction started and it has gotten worse since coal production has started. When the winds blow (slightest breeze) it carries dust from coal pile & refuse area. Traffic in and out of mine make a lot of dust & noise." *Id.*

After reviewing the complaint and the motion to dismiss, the Board cannot conclude that Strunk could prove no set of facts that would entitle him to relief. Consequently, the Board denies Williamson Energy's motion to dismiss with regard to any allegation of a violation of Section 9(a) or 9(b). However, the Board finds that the complaint does not comply fully with the Board's procedural rules, which require that the complaint contain "[t]he dates, location, events, nature, extent, and strength of discharges or emissions and consequences alleged to constitute violations of the Act and regulations." 35 Ill. Adm. Code 103.204(c). Accordingly, in its order below, the Board directs Strunk to file an amended complaint.

Section 9.5(c)

Section 9.5(c) of the Act requires the Illinois Environmental Protection Agency to propose and the Board to adopt a list of toxic air contaminants. 415 ILCS 9.5(c) (2006); *see* Toxic Air Contaminant List (35 Ill. Adm. Code 232), R 90-1(A) (Sept. 3, 1992) (adopting list of 263 contaminants). Section 9.5(c) does not state a prohibition of which Strunk can allege a

violation. Accordingly, the Board grants Williamson Energy's motion to dismiss with regard to any allegation of a violation of Section 9.5(c).

Section 12

Strunk alleges that Williamson Energy has violated Sections 12(a), 12(b), and 12(d) of the Act, each of which prohibits acts pertaining to water pollution. *See* Comp. at 2; *see also* 415 ILCS 5/12(a), 12(b), and 12(d) (2006). With regard to water pollution, the complaint makes two allegations. First, when asked to describe specifically the type and location of the alleged pollution, Strunk stated "Water contamination from run off of coal stack & refuse. Odor." Comp. at 3. Second, when asked to describe specifically the duration and frequency of the alleged pollution, Strunk stated "I first noticed when mine construction started and it has gotten worse since coal production has started. . . . I believe run off is causing water pollution to creeks and waterways." *Id.*

After reviewing the complaint and the motion to dismiss, the Board cannot conclude that Strunk could prove no set of facts that would entitle him to relief. Consequently, the Board denies Williamson Energy's motion to dismiss with regard to any allegation of a violation of Sections 12(a), 12(b), and 12(d). However, the Board finds that the complaint does not comply fully with the Board's procedural rules, which require that the complaint contain "[t]he dates, location, events, nature, extent, and strength of discharges or emissions and consequences alleged to constitute violations of the Act and regulations." 35 Ill. Adm. Code 103.204(c). Accordingly, in its order below, the Board directs Strunk to file an amended complaint.

Section 23

Section 23 of the Act states legislative findings and purposes. *See* 415 ILCS 5/23 (2006). It does not provide Strunk with substantive rights. *See Metz v. U.S. Postal Serv. and Bradley Real Estate*, PCB 98-18, slip op. at 1 (Sept. 23, 1999). "[T]here can be no violation of Section 23." *Brunson v. MCI Worldcom, Inc. and IXC Carrier, Inc.*, PCB 99-71, slip op. at 1 (Jan. 7, 1999). Accordingly, the Board grants Williamson Energy's motion to dismiss with regard to any allegation of a violation of Section 23.

Section 24

Strunk alleges that Williamson Energy has violated Section 24 of the Act, which prohibits acts pertaining to noise under certain circumstances. *See* Comp. at 2; *see also* 415 ILCS 5/24 (2006). With regard to noise pollution, the complaint makes two allegations. First, when asked to describe specifically the type and location of the alleged pollution, Strunk stated "noise in plant operations – belts – and transfer points – mobile equipment operations (dozer track and back up alarms) trucks for refuse & Coal transport – train noise & odor." Comp. at 2. Second, when asked to describe specifically the duration and frequency of the alleged pollution, Strunk stated "I first noticed when mine construction started and it has gotten worse since coal production has started. . . . The noise is very disturbing at all times of day and night when mine is operating." *Id.*

“The appellate court has previously stated that Section 24 is not a general statutory prohibition.” Rulon v. Double D Gun Club, PCB 03-7, slip op. at 4 (Aug. 22, 2002), citing Shepard v. Northbrook Sports Club and the Village of Hainesville, 272 Ill. App 3rd 764, 768, 651 N.E.2d 555, 558 (2nd Dist. 1995). Section 24 prohibits the emission of noise “*so as to violate any regulation or standard adopted by the Board under this Act.*” Shepard, 272 Ill. App. 3rd at 768, 651 N.E.2d at 558 (emphasis in original); *see* 415 ILCS 5/24 (2006). “Section 24 is not a stand-alone provision, but a violation of certain Board noise regulations could result in a violation of Section 24.” Rulon, PCB 03-7, slip op. at 4, citing Roti, et al. v. LTD Commodities, PCB 99-19, slip op. at 2 (Nov. 5, 1998). Even if the Board finds that alleging a violation of Section 24 alone does not state a proper cause of action, such a finding “does not preclude complainants from filing a new complaint alleging violations of particular provisions of the Board’s noise regulations.” Rulon, PCB 03-7, slip op. at 4 (citation omitted).

As the Board has above directed Strunk to file an amended complaint with regard to alleged air and water violations, the Board denies Williamson Energy’s motion to dismiss the alleged violation of Section 24. However, if an amended complaint alleges a noise violation, that allegation must be consistent with the caselaw, including but not limited to those decisions described above. An amended complaint alleging a noise violation must also comply with the Board’s procedural rules, which include the requirements that the amended complaint contain “[t]he dates, location, events, nature, extent, and strength of the discharges or emissions and consequences alleged to constitute violations of the Act and regulations.” 35 Ill. Adm. Code 103.204 (c).

Light

Although the complaint alleges that Williamson Energy is responsible for light directed toward his home and that this light makes it difficult to sleep, the complaint does not cite any provision of the Act or the Board’s regulations that might be violated by these alleged light emissions. *See* Comp. at 2. Accordingly, the Board grants Williamson Energy’s motion to dismiss with regard to any allegation of violations relating to light. *See* Roti, et al. v. LTD Commodities, PCB 99-19, slip op. at 1 (Sept. 3, 1998).

Procedural Requirements

As described above, the Board in its order below directs Strunk to file an amended complaint complying fully with the Board’s procedural rules, including but not limited to those listed at 35 Ill. Adm. Code 103.204 and those pertaining to proof of service.

CONCLUSION

The Board grants Williamson Energy’s motion to dismiss allegations relating to violations of Sections 8, 9.5(c), and 23 of the Act (415 ILCS 5/8, 9.5(c), 23 (2006)) and allegations relating to light. The Board denies Williamson Energy’s motion to dismiss allegations relating to violations of Sections 9(a), 9(b), 12(a), 12(b), 12(d), and 24 of the Act. 415 ILCS 5/9(a), 9(b), 12(a), 12(b), 12(d), 24 (2006). Having found above that the complaint does not comply fully with the Board’s procedural rules, the Board directs Strunk to file an

amended complaint within 30 days of the date of this order. The amended complaint must be limited to allegations relating to violations of Sections 9(a), 9(b), 12(a), 12(b), 12(d), and 24 of the Act, and it must comply with all applicable requirements, including but not limited to those listed at Section 103.204 of the Board's procedural rules. 35 Ill. Adm. Code 103.204.

ORDER

The Board directs Strunk to file an amended complaint within 30 days of the date of this order. Consistent with the terms of this order deciding Williamson Energy's motion to dismiss, the amended complaint must be limited to allegations relating to violations of Sections 9(a), 9(b), 12(a), 12(b), 12(d), and 24 of the Act, and it must comply with all applicable requirements, including but not limited to those listed at 35 Ill. Adm. Code 103.204 and those pertaining to proof of service.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 20, 2007, by a vote of 4-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board