

ILLINOIS POLLUTION CONTROL BOARD
September 4, 1980

VILLAGE OF MONTGOMERY,)
)
Complainant,)
)
v.) PCB 79-269
)
AURORA SANITARY DISTRICT, et al.,)
)
Respondents.)

ORDER OF THE BOARD (by J. Anderson):

On August 15, 1980, the parties filed a Joint Motion to Dismiss Proceeding. Review of the history of this action leads the Board to conclude that there is currently no proceeding before it to be dismissed.

The Village of Montgomery filed its complaint in this action on December 18, 1979. By its Order of March 20, 1980, the Board granted the intervenors' motion to strike portions of the complaint. In so doing, the Board concluded that:

"With the above stricken from it the complaint does not state facts upon which the Board could enter an Order. The complaint is stricken. This case will be subject to dismissal unless an amended complaint is filed within thirty-five days of the date of this Order."


The last sentence, which refers to the Board's custom of retaining the same case or docket number when further action is anticipated, cannot be construed to imply that the Board was doing anything more than granting leave to file another complaint.

At no time has an amended complaint been filed. As the Village's complaint was stricken in its entirety, there is no controversy over which the Board has jurisdiction. Consequently, the Board has no authority to consider either the Joint Motion or the Settlement Agreement executed by the parties, since there still are no stated facts upon which the Board can enter an Order.

The docket on PCB 79-269 is hereby closed.

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 4th day of September, 1980 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board