

ILLINOIS POLLUTION CONTROL BOARD
May 26, 1971

Environmental Protection Agency)
)
 v.)
)
 City of Springfield and Springfield)
 City Water, Light & Power Company)

PCB 70-9

Attorney for the Environmental Protection Agency - Thomas Scheuneman
Attorney for the City of Springfield - Ralph Simhauser and I. J. Feuer

Opinion of the Board (by Mr. Kissel):

On May 12, 1971, the Environmental Protection Agency filed a motion with this Board pursuant to Rule 327 of the Board's Procedural Rules to grant the Agency leave to file an amended complaint, conforming the pleadings to the proof. The amended complaint alleges that January 6 and 7, 1971, the City of Springfield was observed to be emitting smoke from Lakeside and Dallman plants in violation of Rule 3-3.122 of the Rules and Regulations Governing the Control of Air Pollution. And second, that the City has been installing oil fired boilers and other equipment capable of causing or contributing to air pollution and/or designed to prevent air pollution without obtaining a permit from the Environmental Protection Agency in violation of Section 90 of the Act.

While the Board is generally very liberal with regard to pleadings, it is indeed going too far to allow pleadings, even those pleadings which conform to the proof, to be filed on the date the opinion of the Board is handed down. This is exactly what happened in this case and, therefore, the motion to file the amended complaint is hereby denied.

I, Regina E. Ryan, Clerk of the Illinois Pollution Control Board, certify that the above opinion was adopted by the Board this 26th day of May, 1971.

