

ILLINOIS POLLUTION CONTROL BOARD  
October 30, 1975

ENVIRONMENTAL PROTECTION AGENCY, )  
Complainant, )  
 )  
v. ) PCB 75-303  
 )  
PETERSON/PURITAN, INC. )  
Respondent. )

INTERIM OPINION AND ORDER OF THE BOARD (by Mr. Goodman):

This matter comes before the Pollution Control Board (Board) upon the motion of the Environmental Protection Agency (Agency) to vacate and reconsider the Board Order of September 4, 1975, herein.

The Board finds, as a matter of law, that it, as any judicial or quasi-judicial body, inherently has the power to determine, before hearing, whether it has jurisdiction over the subject matter of any cause brought before it. This naturally follows from the proposition that if the Board does not have jurisdiction over the subject matter, then any Board Orders in such matters would be nullities in the eyes of the law.

The Board will, however, grant the Agency's Motion to Vacate and Reconsider, and will order the Respondent to file an Answer to the Agency's Brief. However, the Answer shall be limited to the issue of whether the Board in fact does have jurisdiction at this time over enforcement complaints alleging violations of NPDES permits.

In consideration of the foregoing, it is the Order of the Board that:

- 1) Its Order of September 4, 1975, herein, be and is hereby vacated; and
- 2) Respondent shall file its Answer to Complaint's Brief within 28 days of this Order and that the Agency shall file its Reply within fourteen days of its receiving Respondent's Answer.

IT IS SO ORDERED.

Mr. Young abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Opinion and Order were adopted on the 27<sup>th</sup> day of October, 1975 by a vote of 3-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board