

ILLINOIS POLLUTION CONTROL BOARD
March 2, 1978

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-34
)
 OWENS-ILLINOIS, INC.,)
)
 Respondent.)

ORDER OF THE BOARD (by Mr. Goodman):

On February 14, 1978, Respondent Owens-Illinois, Inc., filed a Motion to strike and dismiss the Complaint filed herein on February 6, 1978. The Complaint seeks revocation of a permit granted by the Agency on September 16, 1977. The Board in an Order entered on February 2, 1978, in Winnetkans Interested in Protecting the Environment v. EPA and Village of Winnetka, PCB 77-320, ruled that the requirement under Procedural Rule 502(a) that permit denial appeals be filed within 45 days of the Agency's decision applies to permit revocation cases brought under Procedural Rule 503(a). This action was initiated well after the 45-day period had expired. The Board can, of course, in the interest of justice extend the 45-day period. However, the Agency has filed another enforcement action against Owens-Illinois, PCB 77-346, which seeks relief identical to that sought in the instant Complaint. Therefore, the Board finds that the interests of justice do not require extension of the 45-day period. Owens-Illinois' Motion to strike and dismiss the Complaint is hereby granted, and the Complaint filed herein is dismissed.

The Agency on February 6, 1978, also filed a Motion to Consolidate PCB 78-34 with a permit denial appeal filed by Owens-Illinois, PCB 77-288. Having dismissed the Complaint in PCB 78-34, however, the Board finds that the Motion to Consolidate is moot. It is, therefore, dismissed.

IT IS SO ORDERED.

Mr. Young concurs.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 2ND day of March, 1978 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board