

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of

State of Illinois,

Docket No. CAA-001-1995

Respondent

ORDER DENYING MOTION TO AMEND COMPLAINT
AND ORDER TO SHOW CAUSE

This matter was initiated by the U.S. Environmental Protection Agency's ("EPA") filing an administrative complaint against the State of Illinois on November 15, 1994. Thereafter, the parties filed various pleadings and this case advanced toward a hearing date of January 22, 1997.

By order dated January 9, 1997, the January 22 hearing was canceled and the parties were directed to file an executed Consent Agreement and Consent Order ("CACO") no later than March 10, 1997. The January 9 order was issued following a conference call between the parties and the undersigned during which the parties represented that the matter had been settled-in-principle. The parties also stated that as part of the settlement procedure EPA would move to amend the complaint.

On March 7, 1997, EPA filed with the court a Motion To Amend The Complaint Instanter. Paragraph 5 of the motion reads: "In contemplation of all reasonably expected delays associated with the delivery, review and execution of the CACO by necessary signatories, Complainant believes that the fully executed CACO will be filed well within four (4)weeks of the granting of this Motion."

The timing of EPA's motion to amend the complaint, particularly the Agency's granting itself an additional four weeks to file an executed CACO, indicates a complete disregard for this court's order of January 9, 1997. There is nothing ambiguous about the January 9 order. It directed EPA to file an executed CACO

by a date certain. EPA neither filed the CACO, nor sought an extension of time for filing. Accordingly, EPA is in noncompliance.

For these reasons, EPA's Motion To Amend The Complaint Instanter is *Denied*. Furthermore, EPA is directed to Show Cause no later than March 21, 1997, as to why this matter should not be dismissed for failure to comply with the court's order of January 9, 1997. In that regard, counsel for EPA is advised that the filing of a motion to extend the time for the submission of an executed CACO will not be considered an appropriate response to the Show Cause order.

Carl C. Charneski
Administrative Law Judge

Issued: March 14, 1997
Washington, D.C.

IN THE MATTER OF STATE OF ILLINOIS, Respondent

Docket No. CAA-001-1995

Certificate of Service

I certify that the foregoing ORDER DENYING MOTION TO AMEND COMPLAINT AND ORDER TO SHOW CAUSE, dated March 14, 1997, was sent this day in the following manner to the below addressees.

Original by Regular Mail to:

Ms. Sonja Brooks
Regional Hearing Clerk
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Chicago, IL 60604-3590

Copy by Facsimile and Regular Mail to:

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Dated: March 14, 1997