

ILLINOIS POLLUTION CONTROL BOARD

January 9, 1997

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 97-62
) (Enforcement - Air)
GEON CORPORATION,)
a Delaware Corporation,)
)
 Respondent.)

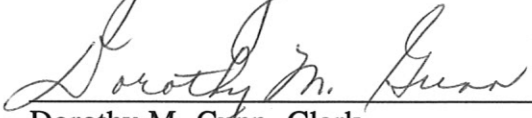
ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on complainant's November 26, 1996 motion to strike Geon Corporation's (Geon) alleged affirmative defenses. In its motion to strike complainant argues, generally, that Geon's defenses are not affirmative defenses because they are insufficiently pled and they do not constitute facts but are merely legal conclusions. In addition, complainant contends that claims of mitigating factors are not "affirmative" defenses and should be stricken. Geon filed a response on December 13, 1996 requesting the Board to deny complainant's motion.

The Board agrees that the five defenses contained in Geon's answer are not affirmative defenses. Nevertheless, they generally involve facts and defenses which Geon can present at hearing. Therefore, the Board denies complainant's motion to strike; this matter shall proceed to hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 9th day of January, 1997, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board