

ILLINOIS POLLUTION CONTROL BOARD  
May 17, 2001

KAREN JONES, ANITA RICE, JODIE )  
LEEPER, TIM LEEPER, CASSANDARA )  
VAUGHN, CHERYL VAUGHN, HOBERT )  
JONES, and PEGGY EBERHARDT, )  
 )  
Complainants, )  
 )  
v. ) PCB 99-145  
 ) (Enforcement - Noise, Citizens)  
HERITAGE TOOL AND DIE MOLD )  
MANUFACTURING, INC., )  
 )  
Respondent. )

ORDER OF THE BOARD (by M. McFawn):

On April 26, 2001, respondent Heritage Tool and Die Mold Manufacturing, Inc. (Heritage Tool or respondent) filed a motion to dismiss for want of prosecution. Heritage Tool's motion asks that the Board dismiss this matter for complainants' failure to participate during telephonic status calls and failure to take action that respondent alleges the complainants stated they would take. Heritage Tool claims that complainants' failure to participate in status conference calls and perform certain actions evidences that the complainants have abandoned the claim.

Pursuant to Section 101.500(d) of the Board's procedural rules, a party has 14 days within which to respond to a written motion. That section provides in part:

If no response is filed, the party will be deemed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion. 35 Ill. Adm. Code 101.500(d).

As of this date, the Board has not received any response to Heritage Tool's motion. Pursuant to Section 101.500(d), the Board deems complainants to have waived any objection to the Board's granting of Heritage Tool's motion.

The hearing officer assigned to this case conducted telephonic status calls on January 23, March 12, and April 23, 2001. Complainants did not appear at any of these status calls. At the April 23, 2001 status call, the hearing officer stated that complaints had previously represented that they would file a motion to voluntarily dismiss this matter, and had not as of that date done so. Respondent stated that it would file its own motion to dismiss.

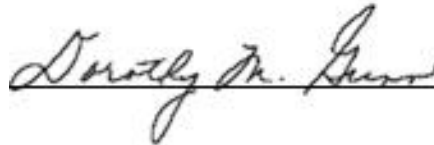
Heritage Tool's motion makes the following allegations: Heritage Tool formerly operated at 7420 Duvan Drive, Tinely Park, Illinois; on June 25, 1999, complainants filed a complaint alleging various violations of the Environmental Protection Act based on noise emissions from Heritage Tool's Tinely Park facility; as of March 13, 2000, Heritage Tool ceased operations at the Tinely Park facility; complainants agreed to dismiss the complaint as a result of Heritage Tool ceasing operations at the Tinely Park facility; complainants have not filed a motion to dismiss, and; complainants have not appeared at the last three telephonic status calls on January 23, March 12, and April 23, 2001. The Board also notes that Heritage Tool attached a copy of a letter from respondent's counsel to complainant Karen Jones.<sup>1</sup>

The Board grants Heritage Tool's motion, and dismisses this matter with prejudice. The Board directs the Clerk to close the docket to reflect this order.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/24 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 3d R. 335; see also 35 Ill. Adm. Code 101.520, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 17th day of May 2001 by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

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<sup>1</sup> The Board notes that respondent did not include an oath, affidavit, or certification with this letter, as required by Section 101.504 of the Board's procedural rules. 35 Ill. Adm. Code 101.504. The Board has considered this lack of support in rendering this order.