

ILLINOIS POLLUTION CONTROL BOARD
August 5, 1993

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| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | AC 93-21 |
| |) | (Administrative Citation) |
| |) | IEPA No. 318-93 AC |
| |) | |
| CITY OF HERRIN, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by C. A. Manning):

This matter comes before the Board on a motion filed on July 14, 1993, by the Respondent, City of Herrin, to dismiss the administrative citation filed by the Illinois Environmental Protection Agency (Agency). The Agency filed the administrative citation (AC) pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) on June 24, 1993. The AC alleges that the City of Herrin violated Sections 21(o)(2) and 21(o)(3) of the Act. Respondent's motion to dismiss alleges that the Agency failed to submit an affidavit as required by Section 31.1(b)(5) of the Act. Section 31.1(b)(5) of the Act requires that an administrative citation be accompanied by an affidavit by the personnel observing the violation(s), attesting to their material actions and observations. The Respondent makes the unsworn allegation that the administrative citation it received from the Agency did not include the required affidavit.

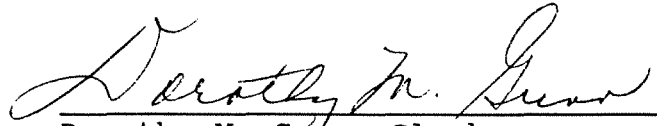
The Agency filed an objection to the motion to dismiss on July 22, 1993. In that objection, it filed an affidavit of the person responsible for processing AC's who swore that she, in her normal course of operation, included the appropriate affidavit and mailed it to the Village of Herrin along with the administrative citation.

Upon review of the filings in this matter, the Board takes administrative notice that the administrative citation filed by the Agency with the Board contains the appropriate affidavit as required by Section 31.1(b)(5). In the normal course of business, the administrative citation package filed by the Agency with the Board is the same as that which is sent to the parties.

Based on Respondent's unsworn allegation that the appropriate affidavit did not accompany the citation, the Board declines to grant this motion to dismiss. This matter will 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 5th day of August, 1993 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board