

ILLINOIS POLLUTION CONTROL BOARD
May 6, 1993

SANGAMON COUNTY,)
)
 Petitioner,)
)
 v.) AC 93-2
) (SCDPH-93-AC-1)
 MARY ROSE ROBSON, WILLIAM) (Administrative Citation)
 EDDINGTON, AND ANN EDDINGTON)
)
 Respondent.)

ORDER OF THE BOARD (J. Anderson):

On January 19, 1993, Sangamon County filed an Administrative Citation ("AC") with the Board. The Environmental Protection Act ("Act") allows parties 35 days from the date of service to appeal the AC. (415 ILCS 5/31.1(b)(4)(1992).) The respondents did not file a petition for review within 35 days. On March 11, 1993, the Board entered a default order in this matter. The default order found that the respondents had violated section 21(p)(1) of the Act by causing or allowing the open dumping of litter. On April 13, 1993, the respondents filed a motion for reconsideration. On April 26, 1993, Sangamon County filed a response to the respondents' motion for reconsideration.

In their motion for reconsideration, respondents state that they have been in the process of purchasing the property in question since June, 1992. They also state that the property was covered with litter in June of 1992, and that they have been "aggressively cleaning the site" until bad weather in November of 1992, prevented further cleaning. (Mot. at 1.) Respondents also state that in February, 1993, they contacted someone to remove the debris however, the person's tractor was broken and he could not immediately remove the debris. (Mot. at 1.) In March, 1993, respondents made arrangements for the debris to be removed and they report that the hauling away of the debris is now finished. (Mot. at 1.)

Sangamon County in its response states that the arguments in respondents' motion do not justify their failure to respond to the AC within thirty-five days after service. (Resp. at 1.) Additionally, Sangamon County argues that remedial efforts do not justify the finding of no violation. (Resp. at 1.)

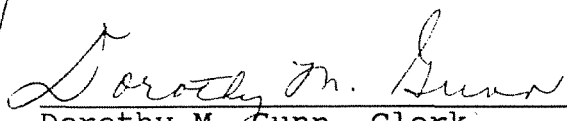
As the Board has previously held, the Act does not give the Board the statutory authority to provide for removal of the litter after the issuance of an AC as a reason to find no violation. Additionally, clean up of a site is not a mitigating factor under the AC program. (See, IEPA v. Jack Wright (August

30, 1990), AC 89-227, 114 PCB 863 and IEPA v. Dennis Grubaugh
(October 16, 1992), AC 92-3, PCB.)

Therefore, the respondents' motion for reconsideration is denied. The parties are to abide by the Board's March 11, 1993 default order. However, the Board on its own motion hereby extends by 30 days the time for payment of the penalty specified in paragraph one of the Board's default order.

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 54 day of May, 1993, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board