

ILLINOIS POLLUTION CONTROL BOARD
November 8, 1990

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
) AC 89-288
v.) (IEPA Case No.10065-AC)
) (Administrative Citation)
MULTI-COUNTY LANDFILL,)
)
Respondent.)

ORDER OF THE BOARD BY (J. C. Marlin):

This matter comes before the Board on the October 30, 1990 "motion to withdraw complaint" filed by the Illinois Environmental Protection Agency (Agency). In support of its motion the Agency stated that of two alleged violations, respondent acknowledged one and filed a Petition for Review to contest the other. At this time the Agency would like to withdraw the contested allegation because it "is not appropriate subject matter for an Administrative Citation."

The respondent, Multi-County Landfill (Multi-County), filed a response on October 31, 1990. In its "motion to dismiss administrative complaint with prejudice", Multi-County stated that the contested violation is appropriate subject matter for an administrative citation but agrees that the matter be dismissed. Multi-County also states that due to Agency delays in bringing the matter to hearing the dismissal should be with prejudice.

The Board has customarily allowed the complainant in an administrative citation proceeding to amend and withdraw, in a timely manner, a complaint as the complainant sees fit to do. The Board hereby grants the Agency's motion to withdraw the violation alleged in paragraph A(2) of the administrative citation. The Board finds that no basis for granting dismissal with prejudice has been stated and denies the respondent's motion for dismissal with prejudice. The Petition for Review is moot.

On December 13, 1989, an Administrative Citation was filed with the Board pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the Illinois Environmental Protection Agency (Agency). A copy of that Administrative Citation is attached hereto, but will not be printed in the Board's Opinion Volumes. Service of the Administrative Citation was made upon the Multi-County Landfill on December 12, 1989. The Agency alleges that on October 16, 1989, the Multi-County Landfill, present operator of a facility located in the County of Douglas, violated Sections 21(p)(5) and 21(p)(7) of the Act. The statutory penalty established for each violation is \$500.00 pursuant to Section

42(b)(4) of the Act.

Respondent filed a petition for review of Paragraph A(2) of the administrative citation, alleging violation of Section 21(p)(7) of the Act, on January 12, 1990. Subsequently, the Board allowed the administrative citation to be amended and withdrew the violation alleged in paragraph A(2). The amendment to the administrative citation mooted the Petition for Review. Therefore, pursuant to Section 31.1(d)(1), the Board finds that the Multi-County Landfill has violated the provisions alleged in the amended Administrative Citation. Since there is one (1) such violation, the total penalty to be imposed is \$500.00.

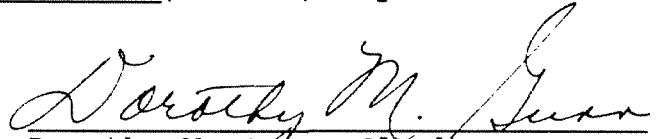
It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this Order the Multi-County Landfill shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay a penalty in the amount of \$500.00 which is to be sent to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
Springfield, IL. 62706.

This docket is closed.

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 8th day of November, 1990, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board