## ILLINOIS POLLUTION CONTROL BOARD March 23, 1989

LEFTON	IRON & METAL COMPANY,	INC.,	)	
	Complaina	nt.	)	
	v.		) PCB	89-53
CITY O	F EAST ST. LOUIS,		)	
	Responden	t.	)	

ORDER OF THE BOARD (by B. Forcade):

On March 15, 1989, Lefton Iron and Metal Company, Inc. ("Lefton") filed a complaint against the City of East St. Louis ("City"). Lefton's single-count complaint alleges, inter alia, that the City owns and controls rights-of-way adjacent to Lefton's property; that the City did not provide trash collection services to its residents for a period of time; that as a result of this lack of collection, trash and refuse accumulated on and along those rights-of-way; and that this accumulation inhibited access to Lefton's property. From these factual allegations, Lefton contends that the City caused or allowed open dumping in violation of Section 21(a) of the Environmental Protection Act. ("Act").

The Board will defer making its "frivolous or duplicitous" determination and setting this matter for hearing, and will withhold any further action on the complaint, until it has received memoranda from the parties concerning the following:

- 1. Whether the complaint includes only depositions of refuse on Brady and Converse streets, or whether it would also include depositions on other land.
- 2. Whether the complaint alleges that any fault of the City arises directly through the City's purported failure to conduct municipal trash collections and, if so, under what legal theory.
- 3. Whether any other action is currently pending or has been decided in any other forum based on the same acts and occurrences upon which the complaint is based.

The Board hereby directs the parties to submit these memoranda to the Board prior to May 1, 1989.

## 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 Agra day of March, 1989, by a vote of 7-0.

Dorothy M/ Gunn, Clerk

Illinois Pollution Control Board