

ILLINOIS POLLUTION CONTROL BOARD  
January 8, 1998

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
) PCB 96-148  
U.S. DISMANTLEMENT CORPORATION, ) (Enforcement - Air)  
an Illinois corporation, AND )  
USDC ENVIRONMENTAL, INC., an )  
Illinois corporation, )  
)  
Respondents. )

INTERIM OPINION AND ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on a motion filed on December 15, 1997, by the People of the State of Illinois, by the Attorney General of the State of Illinois (complainant), for entry of an order of default and judgment against U.S. Dismantlement Corporation and USDC Environmental, Inc. (respondents). Complainant requests that the Board enter an order finding (1) that the Board has personal jurisdiction over respondents; (2) that respondents are in default of this action; (3) that the amended complaint meets all jurisdictional prerequisites for the establishment of liability against respondents; and (4) that judgment in favor of complainant for the relief sought be granted. Upon review of the record, the Board makes an interim finding of default against each respondent; however, the Board orders complainant to provide additional information, argument, and affidavits, if necessary, in support of its request for penalties.

On December 29, 1995, complainant filed a complaint against respondent, U.S. Dismantlement Corporation, pursuant to terms and provisions of Section 31 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/31 (1996)), concerning facilities in Cook County, Illinois. On January 3, 1996, respondent, U.S. Dismantlement Corporation, was served with a copy of the complaint via certified mail. Copies of the return receipt cards were filed with the Board on October 7, 1996. To date, respondent, U.S. Dismantlement Corporation, has failed to appear and to answer the complaint or otherwise file any pleadings directed to this case.

On July 23, 1997, complainant filed an amended complaint (Am. Comp.) against respondents, U.S. Dismantlement Corporation and USDC Environmental, Inc. pursuant to the terms and provisions of Section 31 of the Act (415 ILCS 5/31 (1996)), concerning facilities in Cook County, Illinois. Complainant alleges that respondents violated Sections 9.1(d) of the

Act and 40 CFR 61.145(b)(3).<sup>1</sup> Between July 24, 1997, and July 29, 1997, respondents were served with copies of the amended complaint via certified mail. Copies of the return receipt were attached with complainant's December 15, 1997, motion for default and judgment against respondents. To date, each respondent has failed to answer the amended complaint or otherwise file any pleadings directed to this matter. Each respondent has failed to respond to complainant's motion for default and judgment against respondents within the prescribed time in accordance with 35 Ill. Adm. Code 101.241.

Based upon the record, the Board finds that the Board has personal jurisdiction over each respondent in this matter as complainant has satisfied the requirements necessary for service of the amended complaint on each respondent. The Board also finds that, as the amended complaint properly alleges violations of the Act, complainant's amended complaint meets all jurisdictional prerequisites for the establishment of liability against each respondent. Further, the Board finds that each respondent is in default of this action as each respondent has failed to respond to complainant's amended complaint.

The Board issues an interim finding of default and judgment against each respondent. Insofar as complainant seeks the imposition of civil penalties, attorney fees, expert witness, and consultant fees, as outlined in the July 23, 1997, amended complaint (Am. Comp. at 9, 14, 17, 19, 21), the Board cannot, however, enter an order granting complainant's requested relief on the basis of the bare complaint. The Board accordingly orders complainant to provide the Board, on or before January 29, 1998, with information, argument, and affidavits, if necessary. Upon receipt and consideration of the aforementioned documents, the Board will issue a final order in this matter.

#### INTERIM ORDER

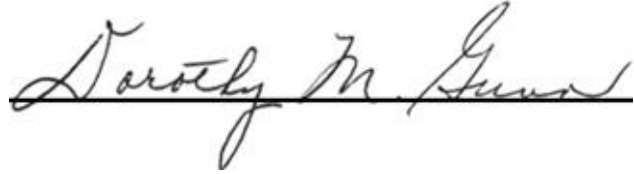
1. Respondent, U.S. Dismantlement Corporation, an Illinois Corporation, and respondent, USDC Environmental, Inc., an Illinois Corporation, are in default of this action.
2. On or before January 29, 1998, complainant, People of the State of Illinois, by the Attorney General of the State of Illinois, shall file information, argument, and affidavits, if necessary, in support of its request for civil penalties, attorney fees, expert witness, and consultant fees, as outlined in its July 23, 1997, amended complaint.
3. Respondent, U.S. Dismantlement Corporation, an Illinois Corporation, and respondent, USDC Environmental, Inc., an Illinois Corporation, shall file any response on or before February 12, 1998.

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<sup>1</sup> While the Board does not generally enforce the provisions of the Code of Federal Regulations, Section 9.1(d)(1) of the Act specifically authorizes enforcement of Sections 111, 112, 165, and 173 of the Clean Air Act and regulations adopted pursuant thereto.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above interim opinion and order was adopted on the 8th day of January 1998, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a solid horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board