

ILLINOIS POLLUTION CONTROL BOARD

July 8, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 04-60
)	(IEPA No. 130-04-AC)
SHARYN FULLER and CARL BENEDICT)	(Administrative Citation)
d/b/a BENEDICT AUTO SALES,)	
)	
Respondents.)	

ORDER OF THE BOARD (by T.E. Johnson):

On April 6, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Sharyn Fuller (Fuller) and Carl Benedict d/b/a Benedict Auto Sales (Benedict) (collectively respondents). See 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that respondents violated Sections 21(p)(1) of the Environmental Protection Act. 415 ILCS 5/21(p)(1) (2002). The Agency further alleges that respondents violated this provision by causing or allowing the open dumping of waste in a manner that resulted in litter at the a property located between Kickapoo Creek and the railroad tracks in Pottstown, Peoria County.

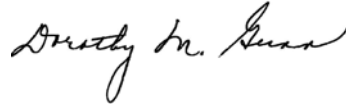
The Agency properly served the administrative citation on Benedict, but, to date, has not filed a proof of service on Fuller. Benedict filed a petition to review on May 10, 2004. On May 20, 2004, the Board issued an order directing Benedict to file an amended petition for review, and the Agency to file the appropriate proof of service on Fuller. Benedict filed an amended petitioner for review on June 21, 2004.

On June 25, 2004, the Agency filed a motion to dismiss the administrative citation against all respondents. In the motion, the Agency acknowledges that Fuller was not timely served within 60 days after the date of the observed violation and that the administrative citation against her should be dismissed. Further, the Agency asserts that it has uncovered additional facts relating to the violations cited against Benedict in the administrative citation. The Agency believes that based on those facts, it is now appropriate to dismiss the administrative citation against Benedict as well.

The Board grants the Agency's motion to dismiss. Accordingly, the Board dismisses this case and closes the docket.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 8, 2004, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board