

ILLINOIS POLLUTION CONTROL BOARD
August 6, 1998

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 98-80
) (Enforcement - Land)
CRAIG LINTON, an individual, and)
RANDY ROWE, an individual,)
)
Respondents.)

ORDER OF THE BOARD (by M. McFawn):

Before the Board is "Complainant's Motion for Summary Judgment," filed on July 21, 1998. In the motion, complainant asserts that there are not disputed facts in this case, and that consequently complainant is entitled to summary judgment on its complaint alleging liability on the part of the respondents for costs incurred by the Illinois Environmental Protection Agency (Agency) in cleaning up waste tires accumulated on respondents' property. In support of the motion, complainant has attached numerous documents to its motion, including Agency inspection reports, correspondence, and a copy of the title deed to respondents' property. Respondents did not respond to the motion.

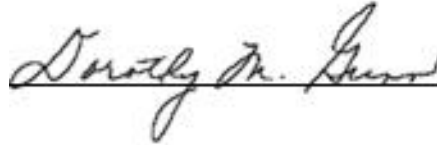
Summary judgment is to be granted where the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Jackson Jordan, Inc. v. Leydig, Voit & Mayer, 158 Ill. 2d 240, 249, 633 N.E.2d 627, 630 (1994). The documents appended to complainant's motion are neither pleadings, depositions, or (with two exceptions) admissions on file, nor are they affidavits; nor has complainant provided affidavits laying a foundation for consideration of any of these documents by the Board in support of its summary judgment motion. The Board thus cannot consider the documents appended to the motion.

The two exceptions to the foregoing statement are the respondents' responses to complainant's requests to admit facts, collectively Exhibit J to the motion. The facts admitted by the respondents in these documents are insufficient by themselves to establish liability.

The Board accordingly denies "Complainant's Motion for Summary Judgment," but without prejudice to complainant to renew the motion with proper supporting affidavits.

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 6th day of August 1998 by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board