

ILLINOIS POLLUTION CONTROL BOARD
September 19, 1996

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	AC 97-2
Complainant,)	(IEPA No. 289-96-AC)
)	AC 97-4
v.)	(IEPA No. 290-96-AC)
)	(Administrative Citation)
JOSEPH C. SMITH and LAVERNE)	
A. SMITH,)	(Consolidated)
)	
Respondents.)	

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

As a preliminary matter, the Board on its own motion has consolidated AC 97-2 with AC 97-4 since both administrative citations involve the same respondents and the sites are located on the same property. These matters are before the Board on a September 10, 1996 motion to dismiss filed by the Illinois Environmental Protection Agency (Agency). The Agency states that these administrative citation were served upon respondents on July 11, 1996. Pursuant to section 31.1(d)(1) of the Environmental Protection Act, respondents had until August 15, 1996 to file a petition for review with the Board. The Agency states that respondents submitted their petition for review on August 21, 1996; therefore, it should be dismissed as untimely filed.

On September 16, 1996, respondents filed a response to the Agency's motion to dismiss, stating that their petition for review was placed in the mail on August 14, 1996. Pursuant to 35 Ill. Adm. Code 101.144(b) service is complete on the date specified on the registered or certified mail receipt. Since the respondents' certified mail receipt shows a date stamp of August 14, 1996, the Board finds that respondents have timely filed their petition for review. Therefore the Agency's motion to dismiss is denied. This matter shall proceed to hearing.

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 _____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board