

ILLINOIS POLLUTION CONTROL BOARD

December 4, 2003

PEOPLE OF THE STATE OF ILLINOIS)	
<i>ex rel.</i> GARY W. PACK, MCHENRY)	
COUNTY STATE'S ATTORNEY,)	
)	
Complainant,)	
)	
v.)	PCB 01-43
)	(RCRA Enforcement)
MICHAEL STRINGINI,)	
)	
Respondent.)	

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

This matter is before the Board on a November 10, 2003 motion to nonsuit filed by the People of the State of Illinois, though Gary Pack, McHenry County State's Attorney (People). In the motion, the People request that the Board nonsuit counts V and VII of the complaint. To date, no response has been filed by Michael Stringini (Stringini).

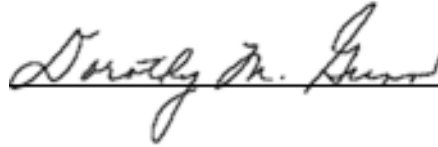
The case concerns a facility leased by Stringini from approximately 1980 to 1984 to allegedly reclaim metals from foundry sand. On August 30, 2000, the People filed an 11-count complaint alleging that Stringini violated specific provisions of the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2002)) and the Board's hazardous waste disposal rules. The complaint alleges that the violations occurred at the leased facility located on McCue Road, south of Illinois Highway 176 in Union, McHenry County, Illinois.

On October 16, 2003, the Board issued an order that granted a motion for summary judgment filed by the People as to counts I, II, III, IV, VI, VIII, X, and XI of the complaint, but found genuine issues of fact did exist as to allegations contained in counts V and VII.

As stated, Stringini has not filed a response to the motion. If a party files no response to a motion within 14 days the party will be deemed to have waived objection to the granting of the motion. *See* 35 Ill. Adm. Code 101.500(d). The Board considers the motion to nonsuit as a motion for voluntary dismissal, and grants it accordingly. Counts V and VII are dismissed. The parties are directed to proceed to hearing and present the Board with sufficient evidence to allow the Board to assess a civil penalty on counts I, II, III, IV, VI, VIII, X and XI of the complaint.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 4, 2003, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board