

ILLINOIS POLLUTION CONTROL BOARD  
December 20, 2001

COUNTY OF SANGAMON,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 01-16
	)	(SCDPH 00-AC-1)
EVERETT DAILY,	)	AC 01-17
	)	(SCDPH 00-AC-2)
Respondent.	)	(Administrative Citation)
	)	(Consolidated)

ORDER OF THE BOARD (by C.A. Manning):

On November 16, 2000, pursuant to Section 31.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/31.1(b) (2000)), the County of Sangamon (County) issued the above-captioned administrative citations to Everett Daily (Daily). The Board accepted these matters for hearing on December 21, 2000, and consolidated them on March 1, 2001.

These matters are currently before the Board on cross motions for summary judgment that were filed by Daily on September 24, 2001, and by the County on October 17, 2001. Both motions for summary judgment were accompanied by motions for leave to file *instanter*, which the Board has not previously addressed. The Board now grants both motions for leave to file *instanter*.

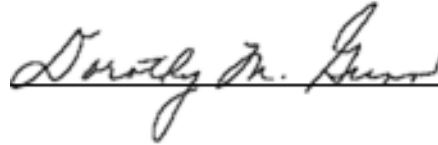
Section 101.516 of the Board's procedural rules (35 Ill. Adm. Code 101.516) requires that responses to motions for summary judgment be filed within 14 days after service of the motion. The County filed a response to Daily's motion for summary judgment on October 9, 2001, which was timely filed pursuant to the Board's mailbox rule (*see* 35 Ill. Adm. Code 101.300). Daily, however, did not respond within the 14-day period.

On December 19, 2001, Daily filed a motion for leave to file a response to the County's motion for summary judgment. In support of this motion, Daily claims that he was awaiting a Board order granting the County's motion for leave to file its motion for summary judgment *instanter*, before filing a response. Daily further claims that substantial prejudice would result if he is denied an opportunity to respond to the County's motion for summary judgment.

Daily's motion for leave to file a response to the County's motion for summary judgment is granted. Consistent with Section 101.516 of the Board's procedural rules, Daily's response is due within 14 days of today's order, on or before January 3, 2002.

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 20, 2001, 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