

ILLINOIS POLLUTION CONTROL BOARD  
October 20, 1988

IN THE MATTER OF: )  
 )  
J AND R LANDFILL, INC., ) PCB #AC 88-23  
 ) PCB #AC 88-34  
 Respondent. )  
 ) (88-3-SC-St. Clair Co  
 ) (88-6-SC-St. Clair Co.  
 ) County Docket)

ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on the Respondent's Consolidated Motion to Dismiss ("Motion"), received by the Board September 27, 1988. No response to the Motion was filed by Complainant, St. Clair County.

Respondent's motion recites, with respect to each of the causes involved, that the respective Administrative Citations were served upon the Respondent by certified mail (on or about March 15, 1988 and April 29, 1988, respectively), and that in each case, "the certified mail envelope contained only the Administrative Citation with no attachments" (Motion, page 1, numbered paragraphs 1 and 2). The Motion asserts that the provisions of Section 31.1 are jurisdictional and that "the failure of Petitioner (sic) to properly serve the Respondent with a citation conforming to the requirements of Section 31.1 precludes the Illinois Pollution Control Board from exercising jurisdiction over the claims raised in said Administrative Citation".

In view of the complainant's failure to respond to the Respondent's motion, the Board must assume that the Complainant has waived objection to the Motion pursuant to 35 Ill. Adm. Code 103.140(c) and, thus must assume the correctness of the facts alleged by the Respondent in its motion.

Section 31.1(b) of the Act, in relevant part, states:

"Each such citation issued shall be served upon the person named therein..., and shall include the following information:

1. a statement specifying the provisions of subsection (p) of Section 21 of which the person was observed to be in violation;

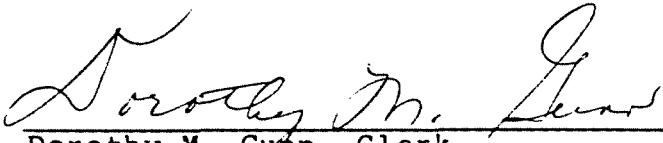
2. a copy of the inspection report in which the Agency or local government recorded the violation, which report shall include the date and time of inspection, and weather conditions prevailing during the inspection;
3. the penalty imposed by subdivision (b)(4) of Section 42 for such violation;
4. instructions for contesting the administrative citation findings pursuant to this Section, including notification that the person has 35 days within which to file a petition for review before the Board to contest the administrative citation; and
5. an affidavit by the personnel observing the violation, attesting to their material actions and observations."

From the above, it is clear that the Act contemplates that service of an administrative citation lacking the information and documentation enumerated in subparagraphs 1-5 is incomplete; inclusion of such information and documentation is mandatory. Since the complainant has evidently failed to conform to such mandatory requirements for service, no jurisdiction has been conferred thereby upon the Board.

For the foregoing reasons, the Consolidated Motion to Dismiss these proceedings is granted with prejudice.

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 20<sup>th</sup> day of October, 1988, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board