

ILLINOIS POLLUTION CONTROL BOARD
February 25, 1993

SANGAMON COUNTY,)
)
 Complainant,)
)
 v.) AC 92-78
) (Administrative Citation)
)
 PHILIP PENNINGTON,)
)
 Respondent.)

ORDER OF THE BOARD (by R.C. Flemal):

This matter is before the Board on a letter filed by the respondent on February 16, 1993. The letter informs the Board that respondent missed the hearing scheduled for February 8, 1993, and asks the Board to grant respondent another hearing in order for him to plead his case. (Letter at 1.) The Board will construe this letter as a motion to reschedule the hearing date in this case. The Board will not make a ruling on the motion at this time, but wishes to inform the parties of its decision to construe the letter as a motion, and in order to allow time for response.

Respondent's letter contains some explanation of facts surrounding his missing the scheduled hearing. However, the Board notes that respondent's letter lacks facts necessary to make a determination on the motion. Therefore, the Board requests that respondent supply more information to the Board. Specifically, the Board would like to know who respondent talked with by telephone at 1:15 P.M. on the day of the hearing and who informed respondent that the hearing had adjourned. This information must be filed with the Board, and be served upon the hearing officer and complainant on or before March 11, 1993. (See 35 Ill. Adm. Code Subpart C, 101.102 and 101.103 for service, filing, and form of document requirements). Also, any information in the February 16, 1993 letter and any additional facts submitted by any parties must be supported by affidavit. (See, 35 Ill. Adm. Code 101.242).

The Board also reminds the parties that Section 101.241(b) of the Board's procedural rules allows for a response to be filed within seven days after the service of a motion. (35 Ill. Adm. Code 101.241.) The Board will allow responses to the letter and any additional information to be filed by March 18, 1993. Additionally, in order to more fully understand what transpired at the February 8, 1993 hearing, the Board asks that the hearing

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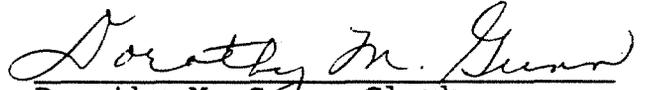
officer file a response to respondent's letter and any additional information, also to be filed by March 18, 1993.

The Board reminds respondent that Section 42(b)(4) of the Environmental Protection Act (415 ICLS 5/42(b)(4) (1992).) (Act)¹ provides that any person found to have violated any provision of subsection (p) or (q) of Section 21 of the Act shall not only pay a penalty of \$500.00 for each violation but also, shall pay all hearing costs.

IT IS SO ORDERED.

Board Member J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 25th day of February, 1993, by a vote of 5-1.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board

¹ The Act was previously codified at Ill.Rev.Stat 1991, ch. 111 1/2 par. 1001 et seq.