

ILLINOIS POLLUTION CONTROL BOARD  
November 21, 1991

DON BOLANDER, )  
 )  
 Complainant, )  
 ) PCB 91-136  
 v. ) (Enforcement)  
 )  
 MONTICELLO BUS SERVICE, )  
 )  
 WAYNE KRUGER, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by J. C. Marlin):

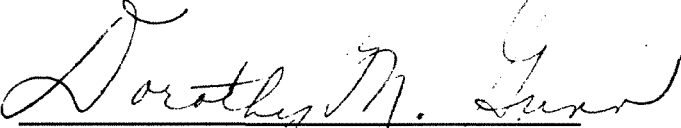
On August 14, 1991, this complaint was filed. On August 22, 1991, the Respondent requested that the Board grant the Respondent 60 days to respond to the complaint. The Board granted that request on September 26, 1991 and granted until October 28, 1991, for the Respondent to file its pleading. The Board notes that its procedural rules require the Board to place the complaint on its agenda for a Board determination that the complaint is not "duplicitous or frivolous". 35 Ill. Adm. Code 103.124. On November 12, 1991, the Board received a Motion to Dismiss the Complaint filed by Respondent asserting that the complaint is "frivolous". On November 21, 1991, the Board received a response from Complainant to the Motion to Dismiss.

The instant Motion states that "on October 29, 1991, the Order of the Pollution Control Board was received by this attorney, ordering a response to the Complainant to be received no later that October 28, 1991. We presume the lateness of receipt of this notice was inadvertent." The Board notes that its September 26, 1991 Order was mailed on September 27, 1991 and was received by the Respondent on September 30, 1991, according to the Board's certified mailing records and the return receipt.

The Board finds that the Motion to Dismiss the Complaint as frivolous is not timely filed and denies the Motion. This has been assigned to a hearing officer who will contact the parties to set a hearing date.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Order was adopted on the 21<sup>st</sup> day of November, 1991, by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board