

ILLINOIS POLLUTION CONTROL BOARD
March 31, 1994

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 92-164
) (Enforcement)
)
BERNIECE KERSHAW and DARWIN)
DALE KERSHAW d/b/a KERSHAW)
MOBILE HOME PARK,)
)
Respondents.)

ORDER OF THE BOARD (by G. T. Girard):

Pursuant to the Board's February 17, 1994 order, on March 18, 1994 the parties filed a joint status report. The report states that since the filing of the last status report on February 4, 1994, the parties' efforts to reach an agreement on the issue of a civil penalty have failed. They believe that at this point, there is no alternative but to submit the issue to the Board for its determination.

The parties report that they are now in the process of developing a framework by which they can introduce materials relevant to the penalty determination, and for submitting written legal argument as to how the factual matters affect the penalty under the Environmental Protection Act. The parties further state that they are making every effort to narrow the issues and to avoid, if possible, the necessity of a hearing.

The Board observes that the parties appear to have lost sight of the posture in which the case now appears on the Board's docket. In its August 26, 1993 order responding to the Kershaws' May 12, 1993 motion for reconsideration, the Board specifically stated that it was unpersuaded that its April 8, 1993 order "should be modified in any way". The Board then reaffirmed the portion of the order which made a finding of violations. Noting that the "law favor settlements", the Board agreed to reserve ruling on the balance of the order (including the \$250,000 penalty) to accede to the parties' request for an opportunity to negotiate penalty and compliance terms.

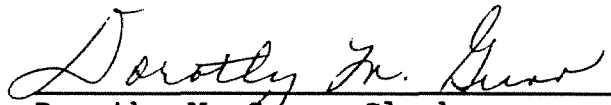
The Board accordingly reminds the parties that we have already adjudicated this controversy. The parties have had close to a year to negotiate an alternative resolution of this case. We are unclear as to why the parties now believe that a hearing would be held in this case, or why they believe it appropriate to

develop a "framework by which they can introduce materials relevant to the penalty determination".

The parties are directed to file, on or before April 29, 1994, any stipulation and proposal for settlement which they may reach. The Board presently anticipates making its final decision on the Kershaws' May 12, 1993 motion for reconsideration at the Board's May 5, 1994 meeting.

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 3rd day of March, 1994, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board