

ILLINOIS POLLUTION CONTROL BOARD
May 18, 1995

COUNTY OF DUPAGE,)	
)	
Complainant,)	
)	AC 94-92
vs.)	State's Attorney
)	File Nos. 94CD859
WASTE MANAGEMENT OF ILLINOIS,)	94SA859
)	(Administrative Citation)
Respondent.)	

ORDER OF THE BOARD (by E. Dunham):

This action was initiated on October 21, 1994 by the filing of an administrative citation by the County of DuPage (County). The administrative citation charges Waste Management of Illinois (WMI) with the violation of Sections 21 (0)(7) and 21 (0)(10) of the Illinois Environmental Protection Act (415 ILCS 5/21 (0)(7) and 5/21 (0)(10)(1992).) The administrative citation alleges that WMI accepted wastes without necessary permits and accepted special waste without a required manifest.

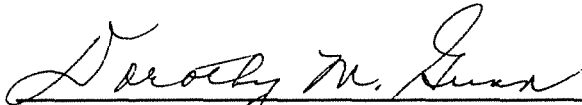
On April 14, 1995, the County filed a motion to withdraw it's complaint. On April 17, 1995, the County filed a request for leave to withdraw its motion to dismiss. The County captioned its motion as a motion to dismiss, however, the County is requesting to withdraw its administrative citation. Therefore the Board will construe this as a motion to withdraw its administrative citation. On April 24, 1995 the County filed a motion to withdraw its administrative citation and withdrew its motion for leave to withdraw its motion to withdraw.

On May 3, 1995 WMI filed a response to the County's April 24, 1995 motion to withdraw its administrative citation. WMI is requesting that the Board dismiss this administrative citation with prejudice. WMI argues that the administrative citations are time barred pursuant to Section 31.1(b) of the Act and thus cannot be brought again. (415 ILCS 5/31.1 (1993).) Section 31.1(b) of the Act states in pertinent that "[w]henever Agency personnel or personnel of a unit of local government ... on the basis of direct observation, determine that any person has violated any provision of subsection (p) or (q) of Section 21 of this Act, the Agency or such unit of local government **may issue and serve an administrative citation upon such person within not more than 60 days after the date of the observed violation.**" (Emphasis added.) We agree with WMI that the County is now time barred from bringing an administrative citation against WMI based on the direct observations of its inspector of August 10, 1994. However, to state that this matter is dismissed with prejudice would be in error, because this matter is being voluntarily

withdrawn by the County. Therefore, the County's request to withdraw the administrative citation is hereby granted. The docket in this matter is closed.

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 18th day of May, 1995, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board