

ILLINOIS POLLUTION CONTROL BOARD  
June 22, 1989

IN THE MATTER OF: )  
 )  
ROCHELLE DISPOSAL SERVICE, INC., ) AC 89-68  
 ) (IEPA Docket No. 9563-AC)  
Respondent. )

ORDER OF THE BOARD (by J. Marlin):

This matter comes before the Board upon a motion to substitute and dismiss filed by the Illinois Environmental Protection Agency (Agency) on May 30, 1989. The Agency's motion requests that the Board substitute the City of Rochelle as Respondent in this matter and correspondingly that the Board dismiss Rochelle Disposal Services, Inc.

The Agency filed this administrative citation with the Board on April 6, 1989. The citation stated that on February 8, 1989, an on-site inspection of the landfill (Rochelle/Municipal No. 2) disclosed uncovered refuse remaining from a previous operating day in violation of Section 21(p)(5) of the Environmental Protection Act (Act). (Ill. Rev. Stat., ch. 111 1/2, pars. 1001-1052). Rochelle Disposal Services filed a petition for review of the citation on May 8, 1989.

In support of its motion to substitute and dismiss, the Agency states that "the parties have agreed that the City of Rochelle, rather than (sic) Rochelle Disposal Service, Inc., bears the responsibility for the subject sanitary landfill". It appears from the narrative inspection report attached to the citation that the City of Rochelle is the owner of the landfill and that Rochelle Disposal Service is the operator. Neither the City of Rochelle nor Rochelle Disposal Services have filed a response to the Agency's motion.

Section 31.1(b) requires:

[T]he 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. Each such citation issued shall be served upon the person named therein or such person's authorized agent for service of process....

Ill. Rev. Stat. 1987, ch.  
111 1/2 par. 1031(b)

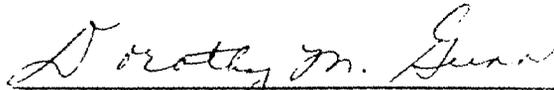
Before ruling on the motion, the Board orders that the Agency, Rochelle Disposal Service, Inc., and the City of Rochelle address the following issues:

- 1) Whether the City of Rochelle was served with the citation within 60 days after the February 8th inspection;
- 2) Whether Rochelle Disposal Service, Inc. was the authorized agent for service of process for the City of Rochelle for the purposes of this citation; and
- 3) Whether the City of Rochelle waives any objections it may have regarding any failure to comply with the service requirements of Section 31.1(b).

Responses to this Order shall be verified by affidavit to the extent such responses make factual assertions. The responses must be received by the Board on or before July 10, 1989.

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 22<sup>nd</sup> day of June, 1989, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board