

ILLINOIS POLLUTION CONTROL BOARD  
October 19, 1995

WILL COUNTY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 95-50
	)	(County No. 95 AC 10)
CDT LANDFILL CORP.,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by J. Yi):

This matter is before the Board pursuant to a September 7, 1995 filing of a motion for reconsideration by CDT Landfill, Corp. (CDT Landfill). CDT Landfill is requesting the Board to reconsider our default order issued on August 24, 1995. As of the date of this order Will County has not responded to the motion.

This matter was before the Board upon the June 30, 1995 filing of an administrative citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by Will County. In that administrative citation Will County alleges that on April 28, 1995, CDT Landfill, present owner and/or operator of a facility located in Will County and commonly known to the County as CDT Landfill, violated Sections 21(o)(6) and 21(o)(9) of the Act. (415 ILCS 5/21(o)(6) and (o)(9) (1994).) The statutory penalty established for each violation is \$500.00 pursuant to Section 42(b)(4) of the Act. (415 ILCS 5/42(b)(4) (1994).) CDT Landfill did not file a petition for review with the Clerk of the Board within 35 days of the date of service as allowed by Section 31.1(d)(2) of the Act. (415 ILCS 5/31.1(d)(2) (1994).) Therefore, on August 24, 1995, pursuant to Section 31.1(d)(1), the Board found that CDT Landfill had violated the provisions alleged in the administrative citation and issued an order assessing a penalty of \$1,000.00.

CDT Landfill requests the Board to reconsider the order of August 24, 1995, on the basis that it did send a petition of review on July 5, 1995 and that "[a]pparently, something happened and it did not properly reach your office but we can attest that it was placed in the mail by our office on July 5, 1995." Attached is a photocopied petition for review dated July 5, 1995 that has a typed docket number of AC 95-49 with the number 49 crossed out and, with blue ink, a hand written number 50 in its place. Additionally there is a Will County designation of WC 95 AC 10 below the docket number. CDT Landfill does not include an affidavit or any other information which demonstrates its

contention that it filed a timely petition for review in this matter.

The Board's rules at Section 101.246(d) state that the Board will consider factors including, but not limited to "error in the decision and facts in the record which are overlooked". (35 Ill. Adm. Code 246.) CDT Landfill presents the Board with evidence which was not before the Board when it made its decision. Therefore we will review the Board's prior decision.

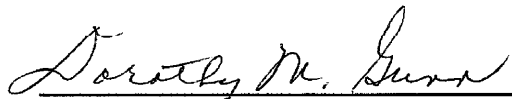
Will County also filed an administrative citation against CDT Landfill which has been docketed as AC 95-49 and had a Will County designation of WC 95 AC 9 in addition to this administrative citation. On July 7, 1995, CDT Landfill filed a petition for review which had a typed docket number of AC 95-49 and a Will County designation of WC 95 AC 10 below the docket number which was dated July 5, 1995. The Board docketed this as a petition for review in AC 95-49, which was accepted and consolidated with AC 95-38 by our order of July 20, 1995.

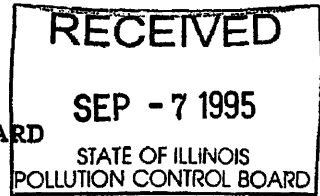
It may be that CDT Landfill was utilizing a form letter for the petition for review in both of these cases and had intended to alter the docket numbers to correspond to the two administrative citations. However, only one petition for review was ever actually filed with the Board. The fact that CDT Landfill filed with the motion for reconsideration a copy of a petition for review for AC 95-49 which had been altered in blue ink to reflect that it was for AC 95-50 does not demonstrate that a separate petition for review for AC 95-50 was ever filed. The Board will not accept one petition for review bearing one docket number to serve as a petition for review for two separate administrative citations.

The Board has reviewed the motion to reconsider and finds that CDT Landfill has not pointed to any error in the Board's original order, presented new facts or arguments or stated any other reason to conclude that the order was in error. Therefore, we affirm our order of August 24, 1995.

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 19<sup>th</sup> day of October, 1995, by a vote of 7-0.

  
 \_\_\_\_\_  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
STATE OF ILLINOIS  
COUNTY OF WILL

PEOPLE OF THE COUNTY OF WILL, )  
 )  
 Complainant, )  
 ) AC 95 - 49 50  
 vs. )  
 )  
 CDT LANDFILL CORP., )  
 )  
 Respondent, )  
 ) WC 95 AC 10

NOTICE OF FILING

To: Ms. Cynthia Campbell  
Assistant State's Attorney  
Will County State's Attorney's Office  
14 W. Jefferson Street  
Suite 200  
Joliet, Illinois 60431

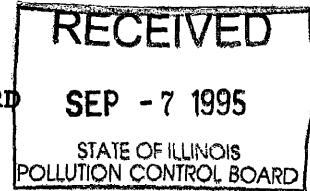
PLEASE TAKE NOTICE that on Wednesday, July 5, 1995, the attached Appearance and Petition for Review were filed with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601.

DAVIS, KAPLAN, DYSTRUP AND HOSTER, P.C.

By: Scott Hoster

Scott M. Hoster #06190498  
DAVIS, KAPLAN, DYSTRUP and HOSTER, P.C.  
181 N. Hammes Avenue  
Joliet, Illinois 60435  
(815)744-6550

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
STATE OF ILLINOIS  
COUNTY OF WILL



PEOPLE OF THE COUNTY OF WILL, )  
)  
Complainant, ) AC 95 - ~~49~~ 50  
vs. )  
)  
CDT LANDFILL CORP., )  
)  
Respondent, ) WC 95 AC 10  
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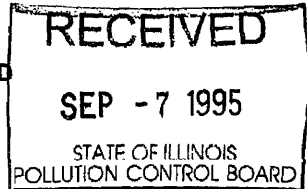
APPEARANCE

NOW COMES the undersigned attorney, and hereby enters his  
GENERAL APPEARANCE on behalf of CDT Landfill Corp., who is a  
Respondent in the above captioned cause.

*Scott Hoster*  
\_\_\_\_\_  
Scott M. Hoster

Scott M. Hoster #06190498  
DAVIS, KAPLAN, DYSTRUP and HOSTER, P.C.  
181 N. Hammes Avenue  
Joliet, Illinois 60435  
(815) 744-6550

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
STATE OF ILLINOIS  
COUNTY OF WILL



PEOPLE OF THE COUNTY OF WILL,	)	
	)	
Complainant,	)	
	)	AC 95 - <del>49</del> 50
vs.	)	
	)	
CDT LANDFILL CORP.,	)	
	)	
Respondent,	)	WC 95 AC 10
	)	

PETITION FOR REVIEW

NOW COMES the Respondent, CDT Landfill Corp., by and through its attorneys Davis, Kaplan, Dystrup and Hoster, P.C., and hereby denies the allegations filed by the County of Will and requests that they be granted a hearing thereon.

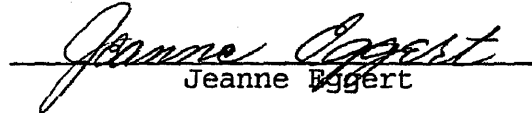
CDT Landfill Corp.

By: Scott Hoster  
Davis, Kaplan, Dystrup and  
Hoster, P.C.

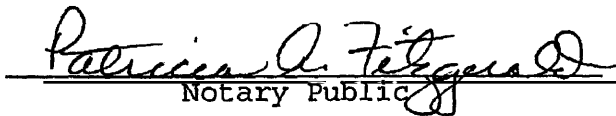
Scott M. Hoster #06190498  
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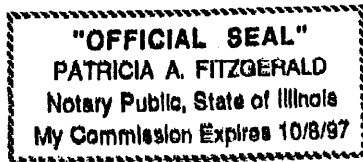
Notice of Filing  
Page 2

The undersigned, being first duly sworn on oath, deposes and says that she served a true copy of the above and foregoing Notice, together with a copy of the Appearance and Petition for Review therein referred to, upon the above named attorney by depositing same in the U.S. Mail Box, located at Joliet, Illinois on Wednesday, July 5, 1995.

  
Jeanne Eggert

Subscribed and sworn to before me  
this 5th day of July 1995.

  
Notary Public



Scott M. Hoster #06190498  
DAVIS, KAPLAN, DYSTRUP and HOSTER, P.C.  
181 N. Hammes Avenue  
Joliet, Illinois 60435  
(815) 744-6550