

ILLINOIS POLLUTION CONTROL BOARD
October 25, 1990

COUNTY OF JACKSON,)
)
 Complainant,)
) AC 90-57
 v.) (Administrative Citation)
)
 FRANK DOAN,)
)
 Respondent.)

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

This matter comes before the Board on the October 11, 1990 response filed by the respondent, Frank Doan. On August 30, 1990, the Board issued a Default Order in this matter against Mr. Doan which found three violations of the Environmental Protection Act (Act) and assessed the statutory penalty for those violations. On September 7, 1990, the complainant, County of Jackson, filed a motion with the Board requesting leave to withdraw one violation alleged in the Administrative Citation. On September 27, 1990, the Board construed this motion as a timely motion for reconsideration pursuant to Section 101.246(a) of the Board's procedural rules and allowed respondent time to file a response.

The Board construes the respondent's timely filed response as agreeing to the County of Jackson's motion. The Board hereby grants the motion for reconsideration.

On reconsideration of this matter, the Board will consider complainant's motion for withdrawal of violation filed September 7, 1990. In support of its motion the County of Jackson states that, with regard to the alleged violation, respondent is now in compliance with the Act and has paid the penalty amount for the remaining violations.

The Board notes that subsequent compliance is not recognized by the Act as justification for reducing an administrative citation penalty. Even so, the Board has customarily allowed the complainant in an administrative citation proceeding to amend and withdraw, in a timely manner, a complaint as the complainant sees fit to do. The Board hereby grants the motion for withdrawal of violation 3 of the Administrative Citation.

To avoid confusion between the default order for the original administrative citation and the default order being issued for the amended administrative citation, the Board hereby vacates the prior Order of August 30, 1990 in this matter.

On July 6, 1990, an Administrative Citation was filed with

the Board pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the County of Jackson (County). A copy of that Administrative Citation is attached hereto, but will not be printed in the Board's Opinion Volumes. Service of the Administrative Citation was made upon Frank Doan on July 3, 1990. The County's amended administrative citation alleges that on June 15, 1990, Frank Doan, present operator of a facility located in the County of Jackson, violated Sections 21(q)(1) and 21(q)(2) of the Act. The statutory penalty established for each violation is \$500.00 pursuant to Section 42(b)(4) of the Act.

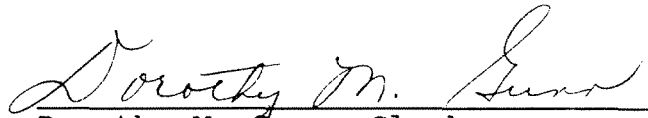
Respondent did not file a petition for review. Therefore, pursuant to Section 31.1(d)(1), the Board finds that Frank Doan has violated the provisions alleged in the amended Administrative Citation. Since there are two (2) such violations, the total penalty to be imposed is \$1000.00.

It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this Order Frank Doan shall, by certified check or money order payable to the Jackson County Treasurer, pay a penalty in the amount of \$1000.00 which is to be sent to:

Shirley Booker
Jackson County Treasurer
Jackson County Courthouse
Murphysboro, IL 62966.

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 25th day of October, 1990, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board