

ILLINOIS POLLUTION CONTROL BOARD
October 6, 1994

COUNTY OF MACON AND ILLINOIS)
ENVIRONMENTAL PROTECTION AGENCY,))
Complainant,)
v.) AC 94-66
MACON COUNTY LANDFILL CORP.,) (County No. 94-3)
Respondent.) (Administrative Citation)

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

This matter is before the Board on several filings by the parties. First on August 26, 1994, the Board received a petition for review filed by respondent which includes three affirmative defenses. The affirmative defenses in effect are a motion to dismiss the administrative citation. (Pet. at 2-3.) Second, the Board received on August 29, 1994, a motion filed by the complainant to waive the Board's recycled paper rule at 35 Ill. Adm. Code 101.103(d). On September 7, 1994, the Board received a response from complainant to the affirmative defenses. Finally, on September 9, 1994, respondent filed an objection to the motion to waive the recycled paper rule.

The respondent asserts that the failure to file the administrative citation on recycled paper resulted in an improper filing of the administrative citation. Respondent argues that because the citation was not properly filed with the Board within 10 days of the date of service, pursuant to Section 31.1(b) of the Act, the citation should be dismissed.

Complainant argues that the motion to waive the recycled paper rule was filed on August 26 by mailing and thus, prior to receipt of the affirmative defense filed by respondent. Complainant further asserts that the respondent was served a copy of the citation on August 8, 1994 and the citation was filed with the Board within 10 days of completed service. Therefore, complainant argues that Section 31.1(b) of the Act has been satisfied.

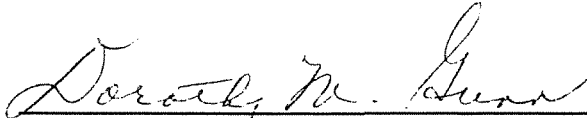
The crux of the argument to dismiss this citation is the motion to waive the recycled paper rule. Therefore, the Board will decide that issue first. Complainant asserts that it is unable to make legible copies on the only copier available to it using recycled paper and therefore asks that the requirement be waived. Respondent asserts that it has the same type of copier and is able to make legible copies using recycled paper.

The Board denies the motion to waive 35 Ill. Adm. Code 101.103(d). The Board notes that the motion to waive the

recycled paper rule did not accompany the filing of the citation on non-recycled paper. Further, Macon County has in the past used recycled paper in its filings before the Board and was even the subject of a motion to strike for alleged failure to use recycled paper. (See, Waste Hauling, Inc. v. Macon County Board, PCB 91-223, 132 PCB 105 (April 9, 1992).) Therefore, Macon County was aware of the Board's rule requiring the use of recycled paper when the citation was filed. Because the Board denies the motion to waive the recycled paper rule, the administrative citation is improperly filed and is therefore dismissed. This docket is closed.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 6th day of October, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board