

ILLINOIS POLLUTION CONTROL BOARD
September 15, 1994

ANGELA M. WHITE,)
)
 Complainant,)
)
 v.) PCB 94-150
) (Enforcement)
 TERRY & BILLIE VAN TINE &)
 SCHNEIDER TRANSPORT. INC.,)
)
 Respondents.)

ORDER OF THE BOARD (by E. Dunham):


This matter comes before the Board on a "Motion to Decide Proceeding on the Merits" filed on August 29, 1994, by Schneider Transport. Inc. (Schneider). Angela White filed a response to the motion on September 9, 1994, four days after the seven day filing deadline for filing a response to a motion lapsed. No motion to accept the response *instanter* was filed, nor was any reason given for the late filing. In the interest of affording a full hearing to all persons before the Board, the Board accepts the response *instanter*. Complainant is warned that late filings are accepted at the discretion of the Board.

Schneider requests that the Board grant summary judgment, asserting that there are no issues of material fact in dispute. In their response, the complainant includes facts that may remain in dispute. As such, a motion for summary judgment is not appropriate. The Board believes that dismissing Schneider as a party may cause prejudice to respondents, Terry and Billie Van Tine and to complainant.

The motion to dismiss Schneider as a party to this complaint is therefore denied. All parties named are to be present or represented at the hearing now scheduled for September 30, 1994.

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 15th day of September, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board