

ILLINOIS POLLUTION CONTROL BOARD
April 8, 1993


PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 92-164
) (Enforcement)
)
BERNIECE KERSHAW, DARWIN DALE)
KERSHAW AND DARRELL KERSHAW)
d/b/a/ KERSHAW MOBILE HOME PARK,)
)
Respondents.)

CONCURRING OPINION (by J. Anderson):

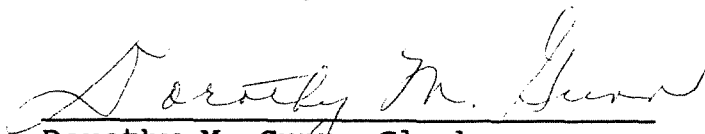
I do not take issue with the amount of the penalty, given the long standing and egregious violations in this case. However, I would have preferred to have found the respondents in violation in an interim order and, prior to issuing a final order, asked that the issue of penalty amount and other remedies be briefed, with particular reference to Section 42(h) of the Environmental Protection Act (Act), and especially 42(h)(3), economic benefits accrued. (See e.g., People of the State of Illinois v. Chem-Plate Industries, Inc (January 21, 1993), PCB 92-68.)

We have had past difficulties on appeal with our penalty amounts. I would like to avoid that risk here in this summary judgement setting by our making a special effort to allow the parties to address the Section 42(h) criteria in further detail.

It is for this reason that I concur.


J. G. Anderson

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above concurring opinion was submitted on the 8th day of April, 1993.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

0141-0079