

ILLINOIS POLLUTION CONTROL BOARD
November 8, 1990

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
HOPPER PAPER DIVISION,)
GEORGIA PACIFIC CORPORATION,)
a foreign corporation, and)
TAYLORVILLE SANITARY DISTRICT,)
a municipal corporation,)
)
Respondent,)
)
TAYLORVILLE SANITARY DISTRICT,) PCB 90-184
a municipal corporation,) (Enforcement)
)
Crossclaimants,)
)
v.)
)
METCALF AND EDDY SERVICES, INC.)
)
Respondents.)

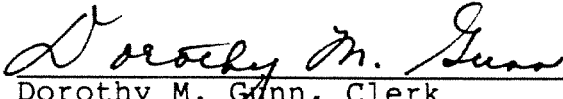
ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board on a cross-complaint filed by respondent Taylorville in an enforcement action. Taylorville filed this claim on October 22, 1990 alleging, inter alia, that it entered into a contract with Metcalf and Eddy Services whereby the latter was hired as an independent contractor to manage and operate the Taylorville facility at issue in this case. Taylorville's cross-claim seeks indemnification for any penalty which might arise as a result of the enforcement proceeding brought against Taylorville by the Agency.

The Board notes that it is rare occurrence when third party complaints are brought before it. Only one other case (See, Lefton Metal v. Kerr McGee, PCB 87-191) has been similar, and that was a counterclaim regarding circumstances different from the one at bar. Accordingly the Board will treat this as a regular complaint in that it will not proceed to hearing without a finding as to whether it is duplicitous or frivolous pursuant to Section 31(b) of the Act. Thus it is hereby ordered that the parties have until November 27, 1990 to submit a filing to the Board as to whether Taylorville's October 22, 1990 filing is frivolous or duplicitous.

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 8th day of November, 1990 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board