

ILLINOIS POLLUTION CONTROL BOARD  
August 30, 1990

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 90-89
	)	(Enforcement)
FRED JOHNSON, HERMAN L. LOEB	)	
JOHNSON & BRIGGS TANK	)	
TRUCK SERVICE a/k/a JOHNSON	)	
& BRIGGS TANK TRUCK & HEATER	)	
SERVICE, an Illinois Corporation,	)	
	)	
Respondent.	)	

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

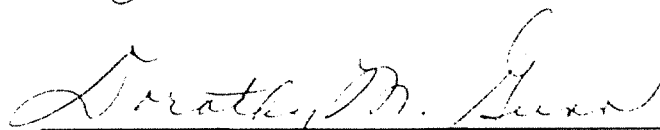
This matter comes before the Board on a Motion to Dismiss filed August 1, 1990 by Herman L. Loeb ("Loeb"). The motion asserts that the First Amended Complaint should be dismissed as against Loeb for failure to give notice of any pre-enforcement conference as required pursuant to Section 31(d) of the Illinois Environmental Protection Act. No response to this motion has been filed.

The motion to dismiss raises matters for disposition which are outside the record. To prevail upon such a motion, Loeb must attach competent proof of the matters asserted. 35 Ill. Adm. Code 101.242(a). Therefore the Board orders Respondent Loeb to file such affidavit with the Board to be received by the Clerk no later than 4:30 p.m., September 9, 1990.

IT IS SO ORDERED.

Board Members J. Dumelle, B. Forcade and J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 30<sup>th</sup> day of August, 1990 by a vote of 4-3.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board