

ILLINOIS POLLUTION CONTROL BOARD
July 16, 1987

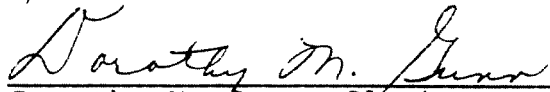
IN THE MATTER OF:)
)
FITZ-MAR LANDFILL, INC.) AC 87-27
) IEPA DOCKET 8306-AC
Respondent.)

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

This matter comes before the Board upon a May 26, 1987, Motion to Vacate Board Order of May 14, 1987 filed by Respondent. On June 29, 1987, the Agency responded by filing a Motion in Opposition to Respondent's Motion. The Agency stated that Respondent was served the Administrative Citation, which is the subject of this proceeding, on March 30, 1987, and that the Citation informed Respondent that a Petition for Review must be filed within thirty-five days of service to avoid a Default Order. By May 14, 1987, the Respondent had not filed a Petition for Review nor had it responded in any manner. The Board therefore issued a Default Order finding a violation and imposing a fine of \$500. On May 26, 1987, fifty-seven days after service, Respondent filed the above-mentioned motion, and such motion constitutes the first pleading filed by Respondent. On July 13, 1987, Respondent filed a Reply to the Agency's motion. Respondent's only allegation of justification for the late filing is that the Citation went unnoticed due to the volumes of state generated paperwork concerning this landfill. The Board finds this to be unpersuasive justification. Respondent cannot now be heard to raise issues which would have been properly before the Board during the statutorily required thirty-five day time period. Respondent's motion to vacate is denied.

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 16th day of July, 1987 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board