

ILLINOIS POLLUTION CONTROL BOARD
February 5, 1986

JOHN W. EILRICH,)
)
 Complainant,)
)
 v.) PCB 85-4
)
 JAMES SMITH, d/b/a)
 MAYWOOD SHELL CAR WASH,)
)
 Respondent.)

ORDER OF THE BOARD (by R.C. Flemal):

On November 24, 1986, hearing was held in this matter in Chicago, Illinois. The hearing was necessitated by the filing of an amended complaint by John W. Eilrich on February 4, 1985. The complaint alleges that James Smith, doing business as Maywood Shell Car Wash, has operated the car wash facility "from March 23, 1984, and before, through January 12, 1985 and after", in violation of 35 Ill. Adm. Code 900.102 (Prohibition of Noise Pollution), 901.102(a) (Sound Emitted to Class A Land), and 901.103 (Sound Emitted to Class B Land).

The Complainant attended the hearing and presented testimony and exhibits on his own behalf. Neither James Smith, nor anyone else representing him or Maywood Shell Car Wash, appeared at hearing.

Section 103.220 of the Board's procedural rules delineates the Board's authority in instances where a party fails to appear at hearing. That section reads in full as follows:

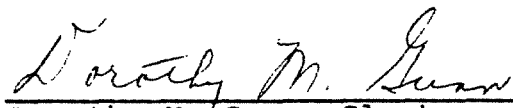
Section 103.220 Default

Failure of a party to appear on the date set for hearing or failure to proceed as ordered by the Board shall constitute a default. The Board shall thereafter enter such order as appropriate, as limited by the pleadings and based upon the evidence introduced at the hearing.

Pursuant to section 103.220, the Board hereby orders James Smith to respond in writing to this Order by March 9, 1987, showing cause as to why the Board should not find him in violation of the regulations cited by Complainant. The Board notes that failure by Respondent to submit such a response within the stated timeframe may result in the imposition of an Order requiring the installation of control equipment at the facility, the ceasing of operations there, and/or the payment of a monetary penalty.

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 5th day of February, 1987, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board