

ILLINOIS POLLUTION CONTROL BOARD
November 29, 1990

TAZEWELL COUNTY and)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 90-40
) (Administrative Citation)
) (Tazewell Docket No. 90-EH-3)
)
STEVE ZIMMERMAN and WASTE)
LTD., INC.,)
)
Respondents.)

ORDER OF THE BOARD (by J. Anderson):

On July 27, 1990, Steve Zimmerman and Waste Ltd., Inc. ("Z & W") filed a Motion to Dismiss. The motion comes in response to the May 21, 1990 filing of an Administrative Citation by Tazewell County pursuant to a delegation agreement with the Illinois Environmental Protection Agency ("Agency"). On August 30, 1990 the Board issued an order directing the Tazewell County ("Tazewell") and the Agency to file their responses to the Motion to Dismiss by September 20, 1990. On September 27, 1990, the Board granted the Agency's September 20, 1990 motion for an extension of time in which to file its response, and directed it to file its response by October 31, 1990. On October 30, 1990, the Agency filed its response.

In its response, the Agency states that it would not have brought this action because the violations charged in the Administrative Citation (i.e., violations of 21(p)(11) of the Illinois Environmental Protection Act ("Act") for failure to timely submit reports and fees) are the subject of an agreement between it and the Z & W. A review of the Agency's response reveals that, prior to the filing of the complaint in this case, the Agency determined that Z & W failed to file the reports and fees required by 35 Ill. Adm. Code 858.307B, 858.308B, and 858.401(a). On March 15, 1990, it sent a second notice of the violations to Z & W. On May 17, 1990, the Agency completed the execution of its agreement with Z & W with regard to the delinquent reports and fees, and that, to date, Z & W have complied with the agreement.

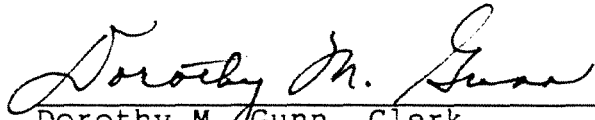
Because the Board wishes the Agency to clarify its response, the Board asks the Agency to provide the following information:

1. Is the Agency recommending that this matter be dismissed because it considers that no violations of the Act have occurred as a result of its agreement with Z & W?
2. Section 4(r) of the Act states that delegation agreements shall require that the work performed thereunder (i.e. inspecting, investigating, and enforcement functions) be subject to the Agency's review. Is the Agency's statement made pursuant to this Section 4(r) review authority to disapprove Tazewell's Administrative Citation?
3. A copy of the Delegation Agreement.

The Agency's response to the above questions and the copy of the Delegation Agreement should be received by the Board on or before December 13, 1990.

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 27th day of November, 1990, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board