

ILLINOIS POLLUTION CONTROL BOARD

November 4, 2004

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 04-27
	)	(IEPA No. 686-03-AC)
DOUGLAS S. CARRICO d/b/a CARRICO'S	)	(Administrative Citation)
AUTO HEAP,	)	
	)	
Respondent.	)	

MICHELLE RYAN, SPECIAL ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT; and

DOUGLAS S. CARRICO APPEARED *PRO SE*.

OPINION AND ORDER OF THE BOARD (by A.S. Moore):

Having received documentation of hearing costs in this administrative citation enforcement action, the Board today issues its final opinion and order. On September 2, 2004, the Board issued an interim opinion and order, finding that respondent Douglas S. Carrico d/b/a Carrico's Auto Heap (Carrico) violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2002)) at a former salvage yard in Kane, Greene County. The Board held that Carrico violated the Act by allowing the open dumping of waste resulting in litter. The violation was alleged in an administrative citation issued by the Illinois Environmental Protection Agency (Agency).

In its September 2, 2004 decision, after the Board found the violation, the Board held that under Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2002)), Carrico was subject to the statutorily-fixed \$1,500 civil penalty. In addition, the Board held that Carrico, by unsuccessfully contesting the administrative citation at hearing, also must pay the hearing costs of the Agency and the Board. The hearing in this case was held on April 7, 2004, at the City Hall Council Room in Carrolton, Greene County.

Because no information on hearing costs was in the record, the Board directed the Agency and the Clerk of the Board each to file documentation of the respective hearing costs, supported by affidavit, and to serve the filing on Carrico. The Board also gave Carrico an opportunity to respond to the requests for hearing costs and noted that after the time periods for these filings had expired, the Board would issue a final opinion and order assessing the civil penalty and any appropriate hearing costs.

On September 24, 2004, the Board received the Agency's statement of hearing costs, supported by affidavit, which the Agency served on Carrico. The Agency's hearing costs total \$90.44, consisting of mileage and clerical costs. On September 8, 2004, the Clerk of the Board submitted an affidavit of the Board's hearing costs totaling \$300.45, the entirety of which reflects the costs of court reporting. The Clerk served this documentation on Carrico, who did not respond to either the Agency's statement of hearing costs or the Clerk's affidavit.

The Board finds the hearing costs of the Agency and the Board reasonable and below orders Carrico to pay those costs under Section 42(b)(4-5) of the Act. The Board incorporates by reference the findings of fact and conclusions of law from its September 2, 2004 interim opinion and order. Under Section 31.1(d)(2) of the Act (415 ILCS 5/31.1(d)(2) (2002)), the Board attaches the administrative citation and makes it part of the Board's final order.

This opinion constitutes the Board's findings of fact and conclusions of law.

### **ORDER**

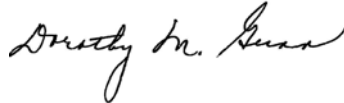
1. The Board finds that Carrico violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2002)) by allowing the open dumping of waste resulting in litter.
2. The Board assesses the statutory civil penalty of \$1,500 for the violation, as well as hearing costs totaling \$390.89, for a total amount due of \$1,890.89. Carrico must pay \$1,890.89 no later than December 20, 2004, which is the first business day following the 45th day after the date of this order. Carrico must pay this amount by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Carrico's social security number or federal employer identification number must be included on the certified check or money order.
3. Carrico must send the certified check or money order to:
 

Illinois Environmental Protection Agency  
 Fiscal Services Division  
 1021 North Grand Avenue East  
 P.O. Box 19276  
 Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 4, 2004, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board