

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

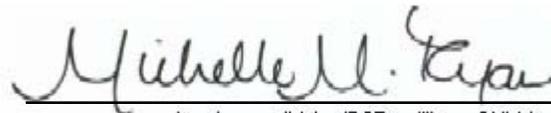
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC 10-09
)	
v.)	(IEPA No. 293-09-AC)
)	
TONY A. LUTTRELL,)	
)	
Respondent.)	

NOTICE OF FILING

To: Tony A. Luttrell
c/o Luttrell Backhoe
400 Presley
Flora, IL 62839

PLEASE TAKE NOTICE that on this date I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled MOTION FOR RECONSIDERATION.

Respectfully Submitted,



e-signature valid for IPCB e-filings ONLY

Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

Dated: February 23, 2010

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
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Complainant,)	AC 10-09
)	
v.)	(IEPA No. 293-09-AC)
)	
TONY A. LUTTRELL,)	
)	
Respondent.)	

MOTION FOR RECONSIDERATION

NOW COMES the Complainant, the Illinois Environmental Protection Agency (“Illinois EPA”), by and through its attorney, Michelle M. Ryan, pursuant to 35 Ill. Adm. Code 101.520, and respectfully states as follows:

(1) On December 1, 2009, Illinois EPA issued an Administrative Citation to Respondent, Tony A. Luttrell, based on an inspection conducted on October 27, 2009.

(2) The record demonstrates that no petition for review has been filed and the Respondent is in default.

(3) On January 21, 2010, the Board issued a final default order, finding that Respondent violated 415 ILCS 21(p)(1) and (7).

(4) The order states, in part: “Because there are two violations of Section 21(p) *and no indication in the record that any of these are a second or subsequent adjudicated violation*, the total civil penalty is \$3,000.” *Illinois EPA v. Luttrell*, PCB AC 10-09, (Jan. 21, 2010) p. 2 (emphasis added).

Electronic Filing - Received, Clerk's Office, February 23, 2010

(5) However, the Administrative Citation filed by Illinois EPA filed on December 1, 2009, states under the heading "Civil Penalty": "On May 2, 2002, and September 5, 2002, the Board found Tony A. Luttrell in violation of Sections 21(p)(1) and 21(p)(7) of the Act in AC 02-48 and AC 03-01."

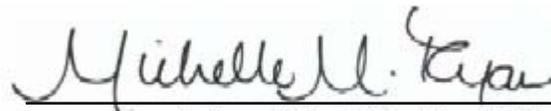
(6) Based on these prior adjudicated violations, the penalty required in this case is \$3,000 per violation. 415 ILCS 5/42(b)(4-5)

(7) The Board has previously taken administrative notice of its prior decisions and issued a penalty of \$3,000 per violation in a default order, based on a similar reference in an Administrative Citation. *See, e.g., Illinois EPA v. Breeden*, AC 07-51 (May 17, 2007).

WHEREFORE, Illinois EPA requests that the Board reconsider its January 21, 2010 order based on this clarification of the record below and enter an order requiring payment of a total civil penalty of \$6,000, as requested in the Administrative Citation.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
Complainant

DATED: February 23, 2010



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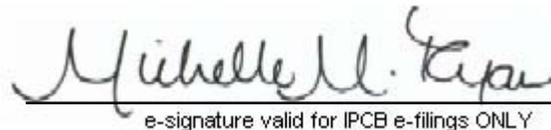
PROOF OF SERVICE

I hereby certify that I did on the 23rd day of February, 2010, send by U.S. Mail with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled MOTION FOR RECONSIDERATION

To: Tony A. Luttrell
c/o Luttrell Backhoe
400 Presley
Flora, IL 62839

and an electronic copy of the same foregoing instrument on the same date via electronic filing

To: John Therriault, Clerk
Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601



e-signature valid for IPCB e-filings ONLY

Michelle M. Ryan
Special Assistant Attorney General

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