

ILLINOIS POLLUTION CONTROL BOARD
November 7, 1996

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	AC 97-2
Complainant,)	(IEPA No. 290-96-AC)
)	(Administrative Citation)
v.)	AC 97-4
)	(IEPA No. 289-96-AC)
JOSEPH C. SMITH and LAVERNE A.)	(Administrative Citation)
SMITH,)	(Consolidated)
)	
Respondents.)	

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board upon the filing of two administrative citations pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the Illinois Environmental Protection Agency (Agency). The Agency filed the first citation on July 15, 1996 and the second citation on July 17, 1996. This matter was consolidated by Board order on September 19, 1996.

The Agency alleges that on May 14, 1996 respondents Joseph C. Smith and Laverne A. Smith, present owners and/or operators of property commonly known to the Agency as Elsay/J.C. Smith #1, and located in Jersey County, Illinois, violated Section 21(p)(1) and Section 21(p)(5) of the Act by causing or allowing litter and causing or allowing proliferation of disease vectors. The Agency also alleges that on May 14, 1996 respondents, present owners and/or operators of property commonly known to the Agency as Elsay/J.C. Smith #2, violated Section 21(p)(1) of the Act by causing or allowing litter. The statutory penalty established for each violation is \$500.00, pursuant to Section 42(b)(4) of the Act.

Respondents filed a petition for review on August 21, 1995 and a hearing was to be set in this matter; however, on October 10, 1996 respondents filed a motion to withdraw the petition for review concerning AC 97-2. On October 21, 1996 respondents filed a similar motion to dismiss concerning AC 97-4.

The Board grants respondents' motions. Pursuant to Section 31.1(d), the Board finds that respondents Joseph C. Smith and Laverne A. Smith violated the provisions alleged in the Administrative Citations. Since there are three (3) such violations, the total penalty to be imposed is \$1,500.00.

ORDER

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order, respondents shall, by certified check or money order payable to the Illinois Environmental Protection Fund, pay a penalty in the amount of \$1,500.00, which is to be sent to:

Illinois Environmental Protection Agency
Fiscal Services
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276

2. Respondents shall include the remittance form and write the case name and number and his social security or federal Employer Identification Numbers on the certified check or money order.

3. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.

4. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the _____ day of _____, 1996, by a vote of

_____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board