

ILLINOIS POLLUTION CONTROL BOARD
November 1, 2001

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
vs.)	AC 00-84
)	(IEPA No. 248-00-AC)
JAMES DAY,)	(Administrative Citation)
)	
Respondent.)	

ROBERT J. SCHERSCHLIGT APPEARED ON BEHALF OF THE AGENCY.

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On July 26, 2001, the Board entered an interim opinion and order finding that James Day violated Sections 21(p)(1) and (3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), 21(p)(3) (2000)). The Board also found that the Illinois Environmental Protection Agency (Agency) and the Board were entitled to hearing costs under Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2000)). The Board directed the Agency and the Clerk of the Board to file affidavits of such costs with the Board and to serve the affidavits upon Day. The Board granted Day 14 days from the date of his receipt of the affidavits to file a response. The Board stated that it would thereafter issue a final order assessing the statutory penalty and assessing appropriate costs.

On August 1, 2001, the Clerk of the Board filed an affidavit stating that the Board's hearing costs were \$957, and served Day with the affidavit on the same date by first-class mail. On August 13, 2001, the Agency filed a sworn statement of hearing costs with the Board seeking \$181.25 in costs, and also served Day with the statement on the same date by first-class mail. Day did not respond to either the Clerk's affidavit or the Agency's statement of hearing costs.

Accordingly, the Board orders Day to pay the statutory penalty of \$3,000 for violating Sections 21(p)(1) and 21(p)(3) of the Act, (415 ILCS 5/21(p)(1), 21(p)(3) (2000) and to pay Board and Agency hearing costs in the amount of \$957 and \$181.25 respectively.

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

ORDER

1. The Board finds that respondent James Day (Day), violated Sections 21(p)(1) and 21(p)(3) of the Environmental Protection Act (Act), 415 ILCS 5/21(p)(1), 21(p)(3) (2000), and assesses Day the statutory penalty of \$3,000 for the violations. The Board's July 26, 2001 opinion and order is incorporated herein as if fully set forth.

2. Day must pay the \$3,000 penalty within 35 days of the date of this order. For this penalty, Day must make a certified check or money order payable to the Environmental Protection Trust Fund in the amount of \$3,000. Day must send the certified check or money orders by first-class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Day must include the remittance form from the administrative citation and write the case name and number and his social security number on the certified check or money order.

3. Within 35 days of the date of this order, Day must reimburse the Board for hearing costs in the amount of \$957 by certified check or money order made payable to the General Revenue Fund. Day must send the payment by first-class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Day must write the case name and number and his social security number on the certified check or money order.

4. Within 35 days of the date of this order, Day must also reimburse the Agency for hearing costs in the amount of \$181.25 by certified check or money order made payable to the Environmental Protection Trust Fund. Day must send the certified check or money orders by first-class mail to:

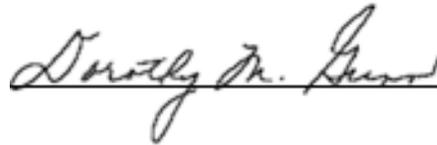
Illinois Environmental Protection Agency
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5. Penalties unpaid after the due date will accrue interest pursuant to Section 42(g) of the Act (415 ILCS 5/42(g) (2000)).
6. Payment of this penalty does not prevent future prosecution if either violation 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) (2000); *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 1, 2001, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board