

ILLINOIS POLLUTION CONTROL BOARD  
June 1, 1995

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 95-26
	)	(IEPA No. 181-95-AC)
ORVILLE BARTELS and FRANK BLAIR,	)	(Administrative Citation)
	)	
Respondents.	)	

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

This matter comes before the Board upon the May 8, 1995 Motion to Dismiss, filed by the Illinois Environmental Protection Agency (Agency) concerning Respondent's May 1, 1995 appeal of the Administrative Citation filed on March 29, 1995. The Administrative Citation is pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act), a copy of which is attached hereto, but will not be printed in the Board's opinion volumes.

Service of the Administrative Citation was made upon Orville Bartels on March 23, 1995. The Agency alleges that on February 6, 1995, Orville Bartels and Frank Blair, present owners and/or operators of a facility located in Cass County and commonly known to the Agency as Chandlerville/Bartels, violated Section 21(p)(1) of the Act. The statutory penalty established for this violation is \$500.00 pursuant to 42(b)(4) of the Act.

On May 1, 1995, Orville Bartels timely filed a hand-written appeal to the Administrative Citation. Respondents' appeal is neither captioned nor typewritten as required by Sections 101.103(a) and 101.103(d) of the Act, and no request for a waiver of these requirements has been filed.

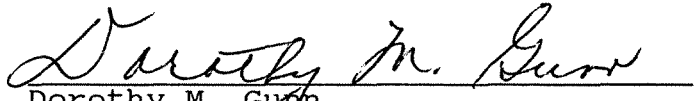
Pursuant to the Act's general grant of authority for the Board to adopt regulations in Section 5 and the specific authority to adopt procedural rules set forth in Section 26 of the Act, the Board has adopted procedural regulations which are to be followed by all persons practicing before the Board. The Board, if it chooses, can waive a procedural requirement on its own motion or a motion of a party practicing before the Board. These are the only situations in which a Board procedural rule would not apply.

Although Respondents' appeal does not comply with the Form of Document rules found in Section 101.103, the Board notes that the appeal was filed within the 35-day time period as set forth in Section 101.246. In addition, the Board has waived type-

written requirements in past appeals of Administrative Citation cases. Finally, the Board believes that neither party in this case will be unduly prejudiced by accepting the appeal. Therefore the Agency's Motion to Dismiss is denied.

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 1<sup>st</sup> day of June, 1995, by a vote of 7-0.

  
Dorothy M. Gunn  
Illinois Pollution Control Board

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MAR 29 1995  
STATE OF ILLINOIS  
POLLUTION CONTROL BOARD

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, )

Complainant, )

v. )

ORVILLE BARTELS and FRANK BLAIR, )

Respondents. )

AC 95-26  
(IEPA No. 181-95-AC)

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/31.1, 1992.

FACTS

1. That Respondents Orville/Bartels and Frank Blair are the present owners and/or operators of a facility located in the County of Cass, State of Illinois.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit, and designated with Site Code No. 0178090001. Said facility is commonly known to the Agency as Chandlerville/Bartels.
3. That Respondents have owned and/or operated said facility at all times pertinent hereto.
4. That on February 6, 1995, Robert Mathis Jr., of the Illinois Environmental Protection Agency, inspected the above-described facility. A copy of the inspection report setting forth the results of such inspection is attached hereto and made a part hereof.

### VIOLATIONS

On the basis of direct observation of Robert Mathis Jr., the Illinois Environmental Protection Agency has determined that Respondents have caused or allowed open dumping at the above-described facility in a manner which resulted in the following occurrences:

A. That on February 6, 1995 an on-site inspection of said facility disclosed the following:

- (1) Causing or allowing litter in violation of 415 ILCS 5/21(p)(1), 1992.

### CIVIL PENALTY

Pursuant to 415 ILCS 5/42(b)(4), 1992, Respondents herein are subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraph A, for a total of Five Hundred Dollars (\$500.00).

Additionally, should Respondents elect to petition the Illinois Pollution Control Board under the review process described hereinbelow, and if there is a finding of the violations alleged herein, after an adjudicatory hearing, Respondents shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board, in addition to the Five Hundred Dollar (\$500.00) statutory penalty.

If you acknowledge the violations cited hereinabove, the civil penalty specified above shall be due and payable no later than May 6, 1995

If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof or if you elect to contest this Administrative Citation, any judgment rendered against you shall specify the due date of the statutory civil penalty and any costs assessed against you.

When payment is made, your check should be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 2200 Churchill Road, P.O. Box 19276, Springfield, Illinois 62794-9276. Also, please complete and return the enclosed Remittance Form, along with your payment, to assure proper documentation of payment.

If any civil penalty imposed by the Illinois Pollution Control Board is not paid within the time prescribed in the order, interest on such penalty will be assessed for the period from the date payment is due until the date payment is received. If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing is not paid when due, the Office of the Illinois Attorney General shall be requested to initiate proceedings in Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty, interest, and hearing costs of the Illinois Environmental Protection Agency and the Illinois Pollution Control Board, if any, the Attorney General's Office will seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING THIS  
ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation. See 415 ILCS 5/31.1, 1992. If you elect to contest this Administrative Citation, you must file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review should be filed with the Illinois Environmental Protection Agency. Such Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation, or a default judgment shall be entered by the

Pollution Control Board. The Petition for Review may be filed with the Clerk of the Illinois Pollution Control Board at the State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601; and, a copy of said Petition for Review filed with the Illinois Environmental Protection Agency at 2200 Churchill Road, P.O. Box 19276, Springfield, Illinois 62794-9276, Attention: Division of Legal Counsel.

*Mary A. Gade*  
Mary A. Gade, Director *by us*  
Illinois Environmental Protection Agency

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Date: 3-21-95

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