

ILLINOIS POLLUTION CONTROL BOARD
April 6, 1995

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 94-8
) (Administrative Citation)
ATKINSON LANDFILL COMPANY,) (IEPA 9-94-AC)
)
Respondents.)

JAMES F. RICHARDSON, ASSISTANT COUNSEL, APPEARED ON BEHALF OF
COMPLAINANT;

BRANKO VARDIJAN, PRESIDENT, APPEARED PRO SE.

OPINION AND ORDER OF THE BOARD (by G. T. Girard):

On January 19, 1995, the Board issued an interim opinion and order in this matter finding that respondent Atkinson Landfill Company (Atkinson) violated Sections 21(o)(5), (o)(9) and (o)(12) of the Environmental Protection Act (Act) on December 15, 1993. Having found a violation of the Act, the Board must assess the appropriate penalty for the violation.

Penalties in administrative citation actions are prescribed by Section 42(b)(4) of the Act which states:

In an administrative citation action under Section 31.1 of this Act, any person found to have violated any provision of subsection (o) or (p) of Section 21 of this Act shall pay a civil penalty of \$500 for each violation of each such provision, plus any hearing costs incurred by the Board and the [Illinois Environmental Protection] Agency. Such penalties shall be made payable to the Environmental Protection Trust Fund to be used in accordance with the provisions of the Environmental Protection Trust Fund Act except if a unit of local government issued the administrative citation, 50% of the civil penalty shall be payable to the unit of local government.

(415 ILCS 5/42(b)(4) (1992).)

Since the Board found three such violations, the penalty to be imposed against respondent is \$1500.00 plus hearing costs.

The interim opinion and order requested affidavits from the Clerk of the Board and the Agency to determine hearing costs. On February 6, 1995, the Agency filed an affidavit stating that the costs incurred included \$79.00 mileage

reimbursement (316 miles at \$.25 per mile), lodging at \$51.06 and per diem of \$36.00 for a total of one hundred and sixty-six dollars and six cents (\$166.06). On February 3, 1995, the Clerk of the Board filed an affidavit of costs stating that the Board's hearing costs were five hundred and sixty dollars (\$560). Furthermore, respondent has not filed an objection to the affidavit of costs filed by the Agency and the Board. Therefore, the total hearing cost to be assessed against respondent is seven hundred twenty-six dollars and six cents (\$726.06).

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

ORDER

1. Respondent is hereby found to have been in violation on December 15, 1993, of 415 ILCS 5/21(o)(5), (9) and (12) (1992).
2. Within 45 days of this Order Respondent shall, by certified check or money order, pay a civil penalty, if not already paid, in the amount of one thousand five hundred dollars (\$1,500) payable to the Environmental Protection Trust Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
P.O. Box 19276

3. It is hereby ordered that within 45 days of the date of this order, respondent shall, by certified check or money order payable to the State of Illinois, designated for deposit to the General Revenue Fund, pay as compensation for hearing costs incurred by the Board, the amount of seven hundred twenty-six dollars and six cents (\$726.06) which is to be sent by First Class mail to:

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

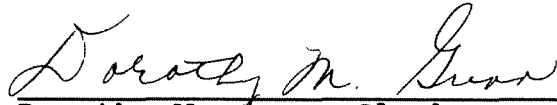
4. Respondent shall write the case name and number and social security or federal Employer Identification Number on each certified check or money order.

5. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
6. This docket is hereby closed.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/40.1) provides for the appeal of final Board orders within 35 days of service of this decision. The Rules of the Supreme Court of Illinois establish filing requirements. (But 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 opinion and order was adopted on the 6th day of April, 1995, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board