

ILLINOIS POLLUTION CONTROL BOARD
February 16, 1995

SANGAMON COUNTY,)
)
 Complainant,)
)
 v.) AC 94-16
) (Administrative Citation)
 DONLEY, INC.,)
 an Illinois Corporation,)
)
 Respondent.)

ROBERT SMITH, ASSISTANT STATE'S ATTORNEY, SANGAMON COUNTY,
APPEARED ON BEHALF OF COMPLAINANT;

DELMAR DONLEY APPEARED ON BEHALF OF RESPONDENT DONLEY, INC.

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

On September 15, 1994, the Board issued an interim opinion and order in this matter, finding that the respondent Donley, Inc. violated Sections 21(p)(1) and 21(p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (3)(1992)) on January 31, 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 two such violations, the penalty to be imposed against respondent is \$1000.00 plus hearing costs.

The interim opinion and order requested affidavits from Sangamon County and the Clerk of the Board to determine hearing costs. Costs were requested from Sangamon County in lieu of

the Illinois Environmental Protection Agency, since the County was the delegated authority that prosecuted this action. On September 26, 1994, Sangamon County filed an affidavit stating that its hearing costs were twenty five dollars and fifty cents (\$25.50). On September 29, 1994 the Clerk of the Board filed an affidavit stating that the Board's hearing costs were one hundred and fourteen dollars (\$114.00). Furthermore, respondent has not filed an objection to the affidavit of costs filed by Sangamon County and the Board. Therefore, the total hearing cost to be assessed against respondent is one hundred thirty nine dollars and fifty cents (\$139.50).

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

ORDER

1. Respondent Donley, Inc. is hereby found to have violated 415 ILCS 5/21(p)(1) and (3)(1992) on January 31, 1993.
2. Within 45 days of this order respondent shall pay a civil penalty, if not already paid, by certified check or money order, in the amount of one thousand dollars (\$1000.00) which is to be sent by First Class mail to:

Mr. James D. Stone, Director
Sangamon County Department of Public Health
200 South Ninth Street
Room 301
Springfield, IL 62701

Respondent shall also include the remittance form with the payment.

3. Within 45 days of this order respondent shall, by certified check or money order, pay hearing costs in the amount of twenty five dollars and fifty cents (\$25.50) which is to be sent by First Class mail to:

Mr. James D. Stone, Director
Sangamon County Department of Public Health
200 South Ninth Street
Room 301
Springfield, IL 62701

4. 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 one hundred and fourteen dollars (\$114.00) 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

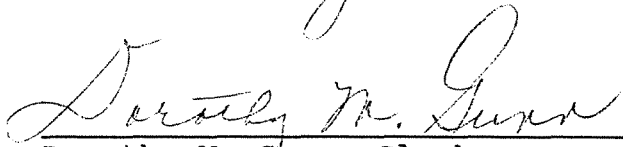
5. Respondent shall write the case name and number and social security or federal Employer Identification Number on each certified check or money order.
6. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
7. This docket is hereby closed.

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board 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, Motion 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 16th day of February, 1995, by a vote of 7-0.



 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board