

ILLINOIS POLLUTION CONTROL BOARD
July 30, 1992

SANGAMON COUNTY,)	
)	
Complainant,)	
)	
v.)	AC 92-35
)	(Co. No. SCDPH-92-AC-9)
)	(Administrative Citation)
CAPITOL BANK AND TRUST)	
COMPANY OF SPRINGFIELD,)	
N/K/A MAGNA BANK OF CENTRAL)	
ILLINOIS, N.A., as Trustee)	
under the provisions of a)	
trust agreement dated the)	
1st day of August, 1979,)	
known as Trust Number TLT-423;)	
FRED E. WIDGER; and KIM BOGGS)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by J.C. Marlin):

This matter comes before the Board upon a settlement agreement on a petition for review of an administrative citation filed with the Board on May 12, 1992, by Sangamon County (complainant) pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111½, pars. 1001, et seq.). The administrative citation alleges violation of Sections 21(q)(1) and (4) of the Act.¹ Section 42(b)(4) of the Act establishes a civil penalty for each violation of \$500.00, plus any hearing cost incurred by the Board or the Agency.

The administrative citation named the following persons as respondents: Capitol Bank and Trust Company of Springfield, N/K/A Magna Bank of Central Illinois, N.A., as Trustee under the provisions of a trust agreement dated the 1st day of August, 1979, known as Trust Number TLT-423 (Capitol Bank); Fred E. Widger; and, Kim Boggs. The citation was served: personally on Capitol Bank on May 1, 1992; by mail on respondent Widger on April 29, 1992; and, personally on respondent Boggs on April 28, 1992.

The administrative citation alleges violations of Sections 21(p)(1) and (4) of the Act, which prohibit causing or allowing litter, and causing or allowing the deposition of waste in standing or flowing waters.

¹Section 21(q) of the Act has been renumbered to Section 21(p) of the Act in P.A. 87-752, effective January 1, 1992.

The citation alleges that the violations took place on March 3, 1992, at a site, in Sangamon County, owned by respondent Capitol Bank as Trustee, and operated by respondents Widger and Boggs. The site is identified in the attachments to the citation as "Spfld./Widger", with IEPA Site Code 1678220055. It is located behind the Fairgate Lodge at 2840 Peoria Road, near Springfield.

Respondent Widger filed a petition for review with the Board on June 1, 1992. On July 6, 1992, Sangamon County filed a settlement agreement with the Board. On July 13, 1992, Sangamon County filed a motion asking that the Board accept the settlement agreement as final disposition of the case.

In the settlement agreement, respondent Widger admits that he caused or allowed litter in violation of Section 21(p)(1) of the Act, and agrees to pay a fine of five hundred dollars (\$500.00). The complainant agrees to dismissal of the Section 21(p)(4) allegation, and agrees to the dismissal of respondents Capitol Bank and Boggs.

Respondent Widger paid the \$500.00 civil penalty to the Sangamon County Department of Public Health on June 17, 1992.

The Board accepts the settlement. The citation is dismissed with respect to respondents Capitol Bank and Boggs. The Board finds that respondent Widger has violated Section 21(p)(1) of the Act by causing litter on March 3, 1992. The Board will assess a civil penalty of five hundred dollars (\$500.00). A copy of the administrative citation will be attached to this Order, but will not be printed in the Opinion volumes.

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

ORDER

- 1) The Board finds that respondent Fred E. Widger has violated Section 21(p)(1) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(p)(1)) by causing litter on March 3, 1992.
- 2) Respondent Fred E. Widger shall pay a civil penalty of five hundred dollars (\$500.00) to the Sangamon County Department of Public Health, which penalty has already been paid.
- 3) The administrative citation is dismissed with respect to the allegation of violation of Section 21(p)(4) of the Act.

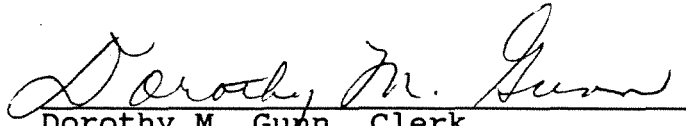
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- 4) Respondents Capitol Bank and Trust Company of Springfield and Kim Boggs are dismissed as parties.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1041, provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (But see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration, and Castenada v. Illinois Human Rights Commission (1989), 132 Ill.2d 304, 547 N.E.2d 437.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 30th day of July, 1992, by a vote of 6-0.


Dorothy M. Gunn, Clerk,
Illinois Pollution Control Board