

ILLINOIS POLLUTION CONTROL BOARD
October 16, 1992

SANGAMON COUNTY,)	
)	
Complainant,)	
)	
v.)	AC 92-48
)	(Dockets A & B)
)	(Administrative Citation)
DELMAR DONLEY & DON CHEM, INC.,)	
)	
Respondent.)	

ROBERT L. SMITH APPEARED ON BEHALF OF THE COMPLAINANT.

JAMES POTTER APPEARED ON BEHALF OF THE RESPONDENT, DON CHEM.

DELMAR DONLEY APPEARED PRO SE.

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

On June 10, 1992, the Board received an administrative citation (citation) filed by Sangamon County pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111 1/2 par. 1031.1) and delegated to the county pursuant to Section 4(r) of the Act. The citation alleges that on April 24, 1992 an on-site inspection of respondent's property disclosed violations of Section 21(p)(1) and 21(p)(3) of the Act. On June 5, 1992, the Board received a request to review the issuance of the citation.

Hearing on this matter was held September 8, 1992, in Springfield, Sangamon County, Illinois. At hearing, the parties indicated that they had reached a settlement agreement and that the parties would be filing the agreement with the Board. On October 5, 1992, the Board received a "Stipulation Agreement" signed by all parties. In addition, on October 5, 1992, the Board received a motion to accept the stipulation agreement as a final disposition in this matter.

The stipulation agreement dismisses the count alleging violation of Section 21(p)(1) of the Act and respondent, Don Chem on all counts. Respondent, Delmar Donley admits to past violations of Section 21(p)(3) of the Act and agrees to pay a civil penalty of five hundred dollars (\$500).

The Board will grant the motion to accept the stipulation agreement as a final disposition in this matter. Therefore, the Board dismisses all counts as to respondent, Don Chem and the count alleging violation of Section 21(p)(1) as to respondent,

0136-0447

Delmar Donley. The Board finds that respondent, Delmar Donley, violated Section 21(p)(3).

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

ORDER

- 1.) The Board hereby accepts the Settlement Agreement executed by the parties, concerning violation of Section 21(p)(3) of the Act by Delmar Donley's operations located in Sangamon County, Illinois. The Settlement Agreement is incorporated by reference as though fully set forth herein.
- 2.) Delmar Donley shall pay the sum of five hundred dollars (\$500) within 30 days of the date of this Order. Such payment shall be made by certified check or money order payable to the Sangamon County Public Health Department and mailed to the attention of:

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

Delmar Donley shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (Ill. Rev. Stat. 1989, ch. 120, par. 10-1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

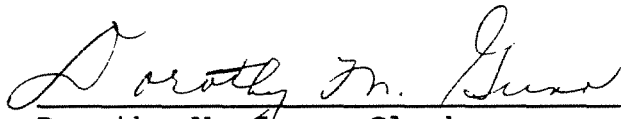
3. Docket A in this matter is hereby closed.
4. Within 30 days of this Order, the County shall file a statement of its hearing costs, supported by affidavit, with the Board and with service upon Delmar Donley. Within the same 30 days, the Clerk of the Pollution Control Board shall file a statement of the Board's costs, supported by affidavit and with service upon Delmar Donley. Such filings shall be entered in Docket B of this matter.

5. Delmar Donley is hereby given leave to file a reply/objection to the filings as ordered in paragraph 4 of this Order within 45 days of this Order.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (Ill.Rev.Stat. 1991, ch. 111 1/2, par. 1041) provides for the 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 16th day of October, 1992, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board