

ILLINOIS POLLUTION CONTROL BOARD  
February 25, 1993

COUNTY OF MADISON, )  
 )  
 Complainant, )  
 )  
 V. ) AC 92-76  
 ) (County Docket No. 92-02)  
 DUANE ARNOLD, ) (Administrative Citation)  
 )  
 Respondent. )

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COUNTY OF MADISON, )  
 )  
 Complainant, )  
 )  
 V. ) AC 92-80  
 ) (County Docket No. 92-03)  
 LAKESIDE ROOFING COMPANY, ) (Administrative Citation)  
 ) (consolidated)  
 Respondent. )

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

This matter comes before the Board upon respondents' February 9, 1993, motion to withdraw the petition for review. Respondents filed the petition for review with the Board on December 7, 1992. In the motion respondents state that because of business demands Duane Arnold would not have time to testify at the upcoming hearing. (Mot. at 1.) Therefore, respondents state, that they would prefer to pay the \$1,000.00 fine then to leave their business affairs unattended in order to be at the hearing. (Mot. at 1.) The Board hereby grants respondents motion to withdraw the petition for review.

The Administrative Citations (AC) in this case were filed on November 2, 1992, and November 13, 1992, pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the County of Madison (County). The authority to issue ACs was delegated to the County pursuant to Section 4(r) of the Act. (415 ILCS 5/31.1 and 5/4(r) (1992).)<sup>1</sup> A copy of the ACs is attached hereto, but will not be printed in the Board's opinion Volumes. Service of the ACs was made upon the respondents on October 20, 1992. The County alleges that on September 8, 1992, Duane Arnold and

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<sup>1</sup>The Act was previously codified at 1991, Ill.Rev.Stat. ch. 111 1/2 1001 et. seq.

0139-0653

Lakeside Roofing Company, present owners and/or operators of a facility located in Madison County, and commonly known to the County as Granite City/Lakeside Roofing, violated Sections 21(p)(1) and 21(p)(3) of the Act. The statutory penalty established for such violations is \$500.00 per violation or \$1,000.00 pursuant to Section 42(b)(4) of the Act.

Respondents have withdrawn their petition for review. Therefore, they have not filed a petition for review with the Clerk of the Board within 35 days of the date of service as allowed by Section 31.1(d)(2) of the Act, the Board pursuant to Section 31.1(d)(1) finds that the respondents have violated the provisions alleged in the AC. Since there are two (2), such violations, the total penalty to be imposed is set at \$1,000.00.

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order Duane Arnold and/or Lakeside Roofing Co. shall, by certified check or money order payable to the General Fund-Solid Waste Fine, pay a penalty in the amount of \$1,000.00 which is to be sent to the attention of John M. Shimkus:

County Treasurer  
157 N. Main St.  
Edwardsville, IL 62025

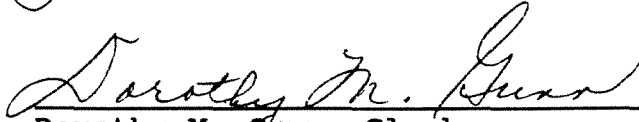
2. Respondent shall include the remittance form and write the case name and number and their social security or federal Employer Identification Number on the certified check or money order.
3. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
4. Payment of this penalty does not prevent future prosecution if this violation continues.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1992).) 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.)

IT IS SO ORDERED.

J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 25<sup>th</sup> day of February, 1993, by a vote of 5-1.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board