

ILLINOIS POLLUTION CONTROL BOARD  
June 3, 1993

SANGAMON COUNTY, )  
 )  
 Complainant, )  
 )  
 v. ) AC 92-78  
 ) (Administrative Citation)  
 ) (Docket B)  
 PHILIP PENNINGTON, )  
 )  
 Respondent. )

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

This matter comes before the Board on an April 27, 1993 reply/objection to a statement of costs incurred filed by the respondent. No responses to the reply were filed.

Section 42(b)(4) of the Environmental Protection Act (415 ILCS 5/42(b)(4) (1992)(Act) provides that any person found in violation of an administrative citation (AC) provision shall pay a fine of \$500 per violation plus any hearing costs incurred by the Agency and the Board. On March 25, 1993 the Board found respondent in violation of Section 21(q)(1) of the Act and imposed a penalty of \$500. The Board also directed the Clerk of the Board and Sangamon County to file statements of costs within 30 days of the March 25, 1993 opinion and order. On March 30, 1993 the Clerk of the Board filed a statement of costs totalling \$465. On April 2, 1993 Sangamon County filed a statement of costs totalling \$110. Both filings were supported by affidavit.

In paragraph 1 of his filing, Philip Pennington objects to the costs, in particular the costs incurred by the Board, stating that these costs "appear to be excessive on their face" and "should be reviewed on a line item basis and compared to costs charged by others engaged in similar fields" (Reply at ¶1).

In paragraph 2 of his filing, the respondent alleges that the costs should never have been assessed against him because he "was wrongfully denied a hearing in this cause" (Reply at ¶2). The Board finds as to paragraph 2 that the arguments are in the nature of a reconsideration of the case on the merits in docket A. The respondent has not properly filed a motion for reconsideration of docket A in this matter. However, on April 23, 1993, Pennington filed an appeal of the docket A proceeding in the Second District Appellate Court. The Board finds that it no longer has jurisdiction to address matters in docket A as that matter is currently before the appellate court..

Pertaining to paragraph 1, the Board finds that the respondent has not shown that the costs incurred are excessive as alleged. The burden of proof in this matter is on the respondent, and the respondent has not supported his allegations with facts or otherwise carried the burden of proof. The Board finds that the cost documents submitted accurately reflect the hearings costs incurred by the Board and Sangamon County, as supported by the affidavits. Therefore, the total hearing costs of \$575 are assessed against the respondent.

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

ORDER

- 1) It is hereby ordered that within 30 days of the date of this order, Philip Pennington shall, by certified check or money order payable to the State of Illinois and designated for deposit in the General Revenue Fund, pay as compensation for hearing costs incurred by the Board, the amount of \$465 which is to be sent to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
Springfield IL 62706

- 2) It is hereby ordered that also within 30 days of the date of this order, Philip Pennington shall, by certified check or money order payable to the Sangamon County Public Health Department, pay as compensation for hearing costs incurred by Sangamon County, the amount of \$110.00 which is to be sent to:

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

- 3) Respondent shall write the case name and number and his social security or federal employer identification number on the certified checks or money orders.
- 4) Docket B is hereby closed.

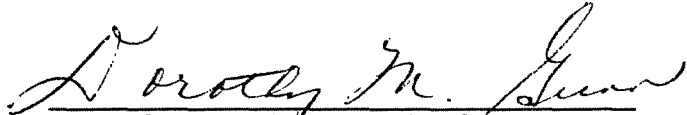
IT IS SO ORDERED.

Board Member J. Anderson concurs.

0143-0098

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1992) provides for the appeal of final Board orders within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (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 order was adopted on the 3<sup>rd</sup> day of June, 1993, by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board