

ILLINOIS POLLUTION CONTROL BOARD  
May 23, 1991

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
 )  
Complainant, )  
 )  
v. ) AC 89-156 (Dockets A & B)  
 ) (IEPA Docket No. 9758-AC)  
 ) (Administrative Citation)  
JOHN A. GORDON, )  
 )  
Respondent. )

ORDER OF THE BOARD (by B. Forcade):

This matter originally came to the Board on an Administrative Citation filed by the Illinois Environmental Protection Agency ("Agency") pursuant to the Illinois Environmental Protection Act (hereinafter "the Act") (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1001 et. seq.). The citation was filed July 13, 1989, and alleged that Respondent, John A. Gordon, the owner and operator of a facility located in Jackson County, Illinois is in violation of Section 21(q)(1) and 21(q)(3) of the Act for causing or allowing open dumping of wastes that result in litter and result in open burning. On January 24, 1991 the Board issued an Order finding that the cited violations had occurred and imposed a penalty of \$1000.00. On March 14, 1991, the Board assessed hearing costs against Respondent in the amount of \$1,288.20.

On April 2, 1991, John A. Gordon filed a letter which the Board construed (in an April 11, 1991 Order) as a motion for reconsideration. In his letter Mr. Gordon requests that the hearing costs be "waived" and that the penalty be made payable in 5 equal installments. On April 25, 1991, the Agency replied in opposition to Mr. Gordon's request.

Mr. Gordon's motion for reconsideration is denied. As noted by the Agency, the Environmental Protection Act does not provide for the waiver of hearing costs. After finding the violation, the Board imposed the applicable statutory penalty amount and assessed costs, as required by statutory mandate. The Board is without authority to waive Administrative Citation costs. The Environmental Protection Act, at Section 42 (g), does provide that the Board shall establish the time for payment for penalties.

The Agency has correctly asserted that Mr. Gordon's statement of financial hardship is not factually supported nor is it verified under oath. Accordingly the request is denied. The Board will however modify its prior Orders to require that the

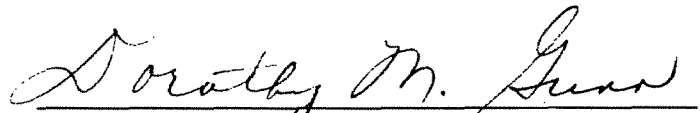
costs of \$1,288.20 be paid within 30 days of the date of this Order and that the penalty of \$1,000 be paid within 60 days of the date of this Order. This provides Mr. Gordon a 120 day extension on payment of the penalty and a 70 day extension on payment of the costs.

Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, 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.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 23<sup>rd</sup> day of May, 1991, by a vote of 6-0.

  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board