

ILLINOIS POLLUTION CONTROL BOARD
September 8, 1988

IN THE MATTER OF:)
)
GORDON MONTGOMERY and KENNETH) AC 88-78
EINSWEILER,) (IEPA Docket No. 9105-AC)
)
Respondents.)

ORDER OF THE BOARD:

This matter comes before the Board upon a July 29, 1988 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the Illinois Environmental Protection Agency (Agency). A copy of that Administrative Citation is attached hereto. Service of the Administrative Citation was made upon Gordon Montgomery and Kenneth Einsweiler on July 29, 1988. The Agency alleges that Gordon Montgomery and Kenneth Einsweiler has violated Sections 21(p)(5) and 21(p)(12) of the Act. The statutory penalty established for each of these violations is \$500.00 pursuant to Section 42(b)(4) of the Act.


Gordon Montgomery and Kenneth Einsweiler has 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. Therefore, pursuant to Section 31.1(d)(1), the Board finds that Gordon Montgomery and Kenneth Einsweiler has violated each and every provision alleged in the Administrative Citation. Since there are two (2) such violations, the total penalty to be imposed is set at \$1,000.00.

It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this Order Gordon Montgomery and Kenneth Einsweiler shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay a penalty in the amount of \$1,000.00 which is to be sent to:

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

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 9th day of September, 1988, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

VIOLATIONS

On the basis of direct observation of Jack Holzer, the Illinois Environmental Protection Agency has determined that Respondent was conducting a sanitary landfill operation at the above-described facility, which is required to have a permit pursuant to Ill. Rev. Stat. 1987, ch. 111½, par. 1021(d), in a manner which resulted in the following conditions:

A. That on June 14, 1988 an on-site inspection of said sanitary landfill facility and a review of Illinois Environmental Protection Agency files and records of said facility, disclosed the following:

- (i) Uncovered refuse remaining from a previous operating day, in violation of Ill. Rev. Stat. 1987, ch. 111½, par. 1021(p)(5).
- (ii) Failure to collect and contain litter from the site by the end of each operating day, in violation of Ill. Rev. Stat. 1987, ch. 111½, par. 1021(p)(12).

CIVIL PENALTY

Pursuant to Public Act 84-1320 (Ill. Rev. Stat. 1987, ch. 111½, par. 1042(b)(4)), Respondent herein is subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraphs A(i) and A(ii), for a total of One Thousand (\$1,000.00) Dollars. Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described hereinbelow, and if there is a finding of the violations alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing

costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board, in addition to the Five Hundred Dollar (\$500.00) statutory penalty for each finding of violation.

If you acknowledge the violations cited hereinabove, the civil penalty specified above shall be due and payable no later than September 5, 1988. If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof or if you elect to contest this Administrative Citation, any judgment rendered against you shall specify the due date of the statutory civil penalty and any costs assessed against you.

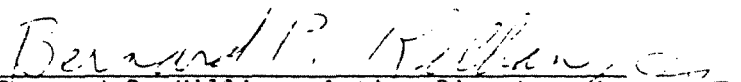
When payment is made, your check should be made payable to the Illinois Environmental Protection Trust fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 2200 Churchill Road, P.O. Box 19276, Springfield, Illinois 62794-9276. Also, please complete and return the enclosed Remittance Form, along with your payment, to assure proper documentation of payment.

If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing, is not paid when due; the Illinois Environmental Protection Agency shall take into consideration such failure to pay during any permit review process upon your application for a new permit or for renewal of an existing permit. Furthermore, if payment is not received when due, the Offices of the Illinois Attorney General shall be requested to initiate proceedings in Circuit Court to collect said civil penalty. In addition to the previously assessed

civil penalty, and hearing costs of the Illinois Environmental Protection Agency and the Illinois Pollution Control Board, if any; the Attorney General's Office will seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation. See Public Act 84-1320 (Ill. Rev. Stat. 1987, ch. 111½, par. 1031.1). If you elect to contest this Administrative Citation, you must file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review should be filed with the Illinois Environmental Protection Agency. Such Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation, or a default judgment shall be entered by the Pollution Control Board. The Petition for Review may be filed with the Clerk of the Illinois Pollution Control Board at the State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601; and, a copy of said Petition for Review filed with the Illinois Environmental Protection Agency at 2200 Churchill Road, P.O. Box 19276, Springfield, Illinois 62794-9276, Attention: Enforcement Services.


Bernard P. Killian, Acting Director
Illinois Environmental Protection Agency

Date: July 27, 1988