

ILLINOIS POLLUTION CONTROL BOARD
May 6, 1999

COUNTY OF WILL,)
)
 Complainant,)
)
 v.) AC 99-31
) (WC 99 AC-01)
 LEONARD KUBINSKI,) (Administrative Citation)
)
 Respondent.)

ORDER OF THE BOARD (by C.A. Manning):

On January 29, 1999, the County of Will (complainant) properly and timely filed an administrative citation with the Board pursuant to Section 31.1 of the Environmental Protection Act (Act) (415 ILCS 5/31.1 (1996)), alleging that respondent violated Sections 21(p)(1) and 21(p)(3) of the Act (415 ILCS 5/21(p)(1), 21(p)(3) (1996)). The statutory penalty established for each violation is \$500 pursuant to Section 42(b)(4) of the Act. 415 ILCS 5/42(b)(4) (1996).

On February 26, 1999, complainant filed a motion to amend this administrative citation requesting that the complaint be amended by reducing the fine from \$1,000 to \$500. On March 17, 1999, complainant filed a motion to dismiss, and a second motion to amend. On March 25, 1999, the Board received a motion to withdraw the first and second motions to amend, and to substitute therefore a motion to withdraw count I which alleged open dumping. The Board received on April 27, 1999, a motion to withdraw the motion to dismiss filed on March 17, 1999. The Board grants the April 27, 1999 motion to withdraw the motion to dismiss filed on March 17, 1999. The Board grants complainant's motions of March 25, 1999, to withdraw the first and second motions to amend and to substitute with the motion to withdraw count I alleging open dumping. Since count I has been dismissed, only count II remains to be adjudicated.

In this matter, respondent has not filed a petition for review with the Clerk of the Board within 35 days of the date of service as required by Section 31.1(d)(1) of the Act. 415 ILCS 31.1(d)(1) (1996). Accordingly, the Board finds that respondent has violated Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (1996)) as alleged in the amended administrative citation which is attached hereto.

It is hereby ordered that:

1. Respondent shall pay a total civil penalty in the amount of \$500 within 30 days of the date of this order.

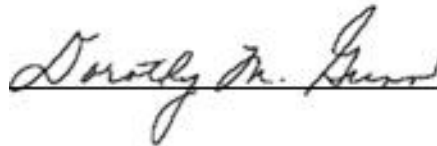
2. Payment shall be made in the form of a certified check or money order, payable to the County of Will. The case number, case name, and respondent's social security number or federal employer identification number should also be included on the check (or money order).
3. The check (or money order) and the remittance form shall be sent to:

Juliann Zarecki
Environmental Enforcement Officer
Waste Services Division
313 North Chicago Street
Joliet, Illinois 60432
4. Penalties unpaid after 30 days of the date of this order shall accrue interest pursuant to Section 42(g) of the Act. 415 ILCS 5/42(g) (1996).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; 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 6th day of May 1999 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board