

ILLINOIS POLLUTION CONTROL BOARD
November 7, 2002

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 02-7
)	(IEPA No. 390-01-AC)
TERRY and LITISHA SPRINGER,)	(Administrative Citation)
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

The Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Terry and Litisha Springer (Springers) on September 4, 2001, alleging that the Springers violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2000)) *amended by* P.A. 92-0574, eff. June 26, 2002). The Agency further alleged that the Springers violated this provision by causing or allowing open dumping of litter on their property in Godfrey, Jersey County. The Agency sought a penalty of \$1,500 for the alleged violation of the Act. The administrative citation was based on an inspection by Agency Field Inspector Charles King on July 5, 2001.

On August 8, 2002, the Board entered an interim opinion and order, which it incorporates here by reference, finding that the Springers violated Section 21(p)(1) of the Act. The Board found that the Agency and the Board were entitled to hearing costs under Section 42(b)(4-5) of the Act. 415 ILCS 5/42(b)(4-5)(2000). The Board directed the Agency and the Clerk of the Board to file affidavits of costs with the Board and to serve the affidavits upon the Springers. The Board granted the Springers 14 days from the date of their receipt of the affidavits to file a reply to the statements of hearing costs. The Board stated that it would then issue a final order assigning the statutory penalty and assessing the appropriate hearing costs. See. 35 Ill. Adm. Code 108.500(b).

On August 9, 2002, the Clerk of the Board filed an affidavit stating that the Board's hearing costs were \$339.70, and served the Springers with the affidavit on the same day by first-class mail. The Agency did not file a statement of hearing costs until October 4, 2002, at which time it also filed a motion to file *instanter* and an affidavit of costs. In the statement of hearing costs, the Agency claimed \$53.13 in mileage and clerical costs, and also served the Springers on the same day. The Springers did not respond to either the Clerk's affidavit or the Agency's statement of hearing costs.

The Board grants the Agency's motion to file *instanter* and accepts the Agency's statement of hearing costs supported by affidavit. Accordingly, the Board orders the Springers to pay the statutory penalty of \$1,500 for violating Section 21(p)(1) of the Act (415 ILCS

5/21(p)(1)(2000) *amended by P.A. 92-0574, eff. June 26, 2002*), and to pay the Board and Agency hearing costs in the amount of \$339.70 and \$53.13, respectively. Pursuant to Section 31.1(d)(2) of the Act (415 ILCS 5/31.1(d)(2)(2000)), the board attaches the administrative citation and makes it part of the order below.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Springers must pay a penalty of \$1,553.13 (\$1,500 in statutory penalty plus \$53.13 in reimbursement to the Illinois Environmental Protection Agency for hearing costs) no later than December 7, 2002, which is the 30th day after the date of this order. Respondents must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Springers' social security numbers or federal employer identification numbers must be included on the certified check or money order. The Springers must send the certified check or money order and the remittance form to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

2. The Springers must also reimburse the Board for hearing costs in the amount of \$339.70 no later than December 7, 2002, which is the 30th day after the date of this order. The Springers must pay this penalty by certified check or money order made payable to the General Revenue Fund. The case number, case name, and the Springers' social security number or federal employer identification number must be included on the certified check or money order. The Springers must send the certified check or money order and the remittance form to:

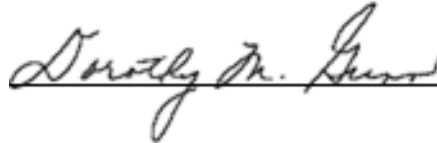
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

3. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
4. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 7, 2002, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board