

ILLINOIS POLLUTION CONTROL BOARD

August 5, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 04-18
)	(IEPA No. 514-03-AC)
LUTHER COLEMAN,)	(Administrative Citation)
)	
Respondent.)	

MICHELLE RYAN APEARED ON BEHALF OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY; and

LUTHER COLEMAN APPEARED *PRO SE*.

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

Having received documentation of hearing costs in this administrative citation enforcement action, the Board today issues its final opinion and order. On June 17, 2004, the Board issued an interim opinion and order, finding that the respondent, Luther Coleman, violated Section 21(p)(1) and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(7) (2002)) at a site in Harrisburg, Saline County. The Board held that Mr. Coleman cause or allowed the open dumping of waste resulting in litter and in the deposition of general construction or demolition debris as alleged in an administrative citation issued by the Illinois Environmental Protection Agency (Agency).

In its June 17, 2004 decision, after the Board found the violations, the Board also held that under Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2002)), Mr. Coleman was subject to the \$3,000 statutory penalty. In addition, the Board held that Mr. Coleman, by unsuccessfully contesting the administrative citation at hearing, also must pay the hearing costs of the Agency and the Board. The hearing in this case was held March 3, 2004, at the Saline County Detention Center in Harrisburg.

Because the record contained no information on hearing costs, the Board directed the Clerk of the Board and the Agency each to file documentation supported by an affidavit of their respective hearing costs and to serve that filing on Mr. Coleman. The Board also gave Mr. Coleman an opportunity to respond to the requests for hearing costs and noted that, after the deadline for these filings had passed, the Board would issue a final opinion and order assessing the civil penalty and any appropriate hearing costs.

On June 22, 2004, the Clerk of the Board submitted an affidavit of the Board's hearing costs of \$144.25, all of which reflect the cost of court reporting services. On July 12, 2004, the

Board received the Agency's statement of hearing costs, supported by an affidavit. The Agency's hearing costs total \$179.04, consisting of both mileage and clerical fees. Since the Board did not receive the Agency's statement until July 12, 2004, Board Hearing Officer Carol Sudman on July 13, 2004, extended Mr. Coleman's deadline for filing any objection to the hearing costs to July 26, 2004. Although both the Clerk and the Agency served this documentation on Mr. Coleman, he did not respond to either statement.

The Board finds that the hearing costs of the Agency and the Board are reasonable and below orders Mr. Coleman to pay those costs under Section 42(b)(4-5) of the Act. The Board incorporates by reference the findings of fact and conclusions of law from its June 17, 2004 interim opinion and order. Under Section 31.1(d)(2) of the Act (415 ILCS 5/31.1(d)(2) (2002)), the Board attaches the administrative citation and makes it part of the Board's final order below. This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

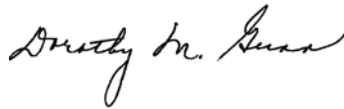
1. The Board finds that Mr. Coleman violated Sections 21(p)(1) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1) and (p)(7) (2002)) by causing or allowing the open dumping of waste resulting in litter and in the deposition of general construction or demolition debris.
2. The Board assesses the statutory penalty of \$3,000 for the violations, as well as hearing costs totaling \$323.29, for a total amount due of \$3,323.29. Mr. Coleman must pay \$3,323.29 no later than September 20, 2004, which is the first business day following the 45th day after the date of this order. Mr. Coleman must pay this amount by certified check or money order made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Mr. Coleman's social security number or federal employer identification number must be included on the certified check or money order.
3. Mr. Coleman must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

Section 41(a) of the 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) (2002); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 353 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 August 5, 2004, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board