

ILLINOIS POLLUTION CONTROL BOARD
January 22, 1987

IN THE MATTER OF:)
)
DAMON SIMMONS and D & D) AC 86-13
DISPOSAL SERVICE, INC.) (IEPA Docket No. 8154-AC)
)
Respondents.)

ORDER OF THE BOARD:

This matter comes before the Board upon a(n) December 8, 1986 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 Damon Simmons and D & D Disposal Service, Inc. on December 4 and 5, 1986 respectively. The Agency alleges that Damon Simmons and D & D Disposal Service, Inc. has violated Sections 21(p)(5), 21(p)(7), 21(p)(4) and 21(p)(9) of the Act. The statutory penalty established for each of these violations is \$500.00 pursuant to Section 42(b)(4) of the Act.

Damon Simmons and D & D Disposal Service, Inc. 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 Damon Simmons and D & D Disposal Service, Inc. has violated each and every provision alleged in the Administrative Citation. Since there are four (4) such violations, the total penalty to be imposed is set at \$2,000.00.

It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this Order Damon Simmons and D & D Disposal Service, Inc. 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 \$2,000.00 which is to be sent to:

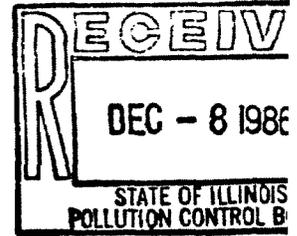
Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
Springfield, IL 62706

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 22nd day of January, 1987 by a vote of 6-0.

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



ADMINISTRATIVE CITATION

IN THE MATTER OF:)	
)	
DAMON SIMMONS, individually,)	
and D. & D. DISPOSAL)	
SERVICE, INC., an Illinois)	IEPA DOCKET NO. 8154-AC
corporation,)	
)	
Respondents.)	

AC 86-13

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Public Act 84-1320 (Ill. Rev. Stat. 1986, Supp., ch. 111 1/2, par. 1031.1).

FACTS

1. That the individual Respondent, Damon Simmons, operates a refuse hauling business through the corporate Respondent, D. & D. Disposal Service, Inc.

2. That Respondent Damon Simmons has been receiving refuse and hauling such refuse in Respondent D. & D. Disposal Service, Inc., trucks, and on various occasions has been dumping such refuse on a parcel of land which is not permitted by the Illinois Environmental Protection Agency as a sanitary landfill.

3. That on information and belief, the Illinois Environmental Protection Agency believes that said parcel of land is owned by the father of Respondent, Damon Simmons.

4. That said parcel of land is located in Fayette County in the State of Illinois, and has been designated IEPA Site Code No. 0518060001.

5. That on October 17, 1986, Patrick McCarthy of the Illinois Environmental Protection Agency inspected said parcel of land. A copy of the inspection report setting forth the results of such inspection is attached hereto and made a part hereof.

VIOLATIONS

On the basis of direct observation of Patrick McCarthy, the Illinois Environmental Protection Agency has determined that Respondents herein were conducting a sanitary landfill operation at the above-described facility without any permits from the Illinois Environmental Protection Agency, notwithstanding the fact that said facility is required to have a permit pursuant to Ill. Rev. Stat. 1985, ch. 111 1/2, par. 1021(d). Said facility was operated in a manner which resulted in the following conditions:

A. On October 17, 1986, operated said landfill facility while uncovered refuse remained from a previous operating day in violation of Ill. Rev. Stat. 1986 Supp., ch. 111 1/2, par. 1021(p)(5).

B. On October 17, 1986, accepted waste without necessary permits, in violation of Ill. Rev. Stat. 1986 Supp., ch. 111 1/2, par. 1021(p)(7).

C. On October 17, 1986, operated said landfill facility so as to allow open burning of refuse, in violation of Ill. Rev. Stat. 1986 Supp., ch. 111 1/2, par. 1021(p)(4).

D. On October 17, 1986, allowed refuse to be deposited on said facility site without having any permits to so accept and dispose of refuse, in violation of Ill. Rev. Stat. 1986 Supp., ch. 111 1/2, par. 1021(p)(9).

CIVIL PENALTY

Pursuant to Public Act 84-1320 (Ill. Rev. Stat. 1986 Supp., ch. 111 1/2, par. 1042(b)(4)), Respondents herein are subject to a civil penalty

of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraphs A through D, for a total of Two Thousand Dollars (\$2,000.00). Additionally, should you 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, you 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.

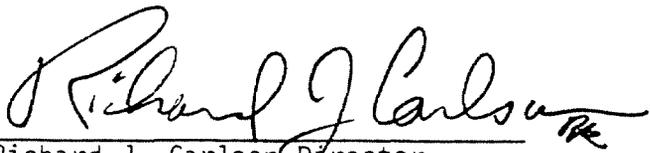
If you acknowledge the violations cited hereinabove, or if you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service, the civil penalty specified hereinabove shall be due and payable no later than January 12, 1987. Your 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 you elect to contest this Administrative Citation, any judgment rendered against you shall specify the due date of the statutory civil penalty and costs assessed against you.

If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing, is not paid when due; then 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. 1986 Supp., ch. 111 1/2, 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 Street, 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.


Richard J. Carlson, Director
Illinois Environmental Protection Agency

Date: December 3, 1986