

ILLINOIS POLLUTION CONTROL BOARD
April 2, 2009

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 08-28
)	(IEPA No. 52-08-AC)
ROB PINSKI)	(Administrative Citation)
)	
Respondent.)	

MICHELLE M. RYAN APPEARED ON BEHALF OF THE COMPLAINANT.

OPINION AND ORDER OF THE BOARD (by G.L. Blankenship):

In an interim opinion and order on February 19, 2009, the Board found that the respondent, Rob Pinski¹, allowed the open dumping of waste resulting in litter, open burning and the deposition of general construction or demolition debris in violation of Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (3), (7) (2006)) at a site located at 1043 N. Walnut Street, St. Johns, Perry County. Having found that Mr. Pinski committed these violations, the Board assessed the statutory civil penalty of \$ 4,500 and hearing costs. The Board directed the Illinois Environmental Protection Agency (Agency) and the Clerk of the Board to file documentation of their hearing costs and provided Mr. Pinski the opportunity to respond to those filings.

On September March 3, 2009, the Clerk of the Board submitted an affidavit of hearing costs totaling \$165.15. On March 9, 2009, the Board received from the Agency a statement of hearing costs in the amount of \$169.83. Respondent has not responded to either statement of costs. *See* 35 Ill. Adm. Code 108.506(a) (setting 21-day deadline for response).

The Board finds the hearing costs of the Board and the Agency reasonable and orders respondent to pay those costs under Section 42(b)(4-5) of the Act. 415 ILCS 5/42(b)(4-5) (2006). The Board incorporates by reference the findings of fact and conclusions of law from its February 19, 2009, interim opinion and order. Under Section 31.1(d)(2) of the Act, the Board attaches the administrative citation and makes it part of the Board's final order.

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

ORDER

¹ The administrative citation was also filed against Joseph Cosentino. On June 5, 2008, the Board dismissed Joseph Cosentino on the motion of the Agency. *See IEPA v. Cosentino and Pinski*, AC 08-28 (June 5, 2008).

1. The Board finds that respondent Mr. Rob Pinski violated Sections 21(p)(1) (3), and (7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (3), and (7) (2006)) at property located in St. Johns, Perry County.
2. The Board assesses the civil penalty of \$4,500 for the violations, as well as hearing costs totaling \$334.98 for a total amount of \$4,834.98. Respondent must pay \$4,834.98 no later than Monday, May 18, 2009 which is the first business day after the 45th day from the date of this order. Respondent must pay this amount by certified check or money order, made payable to the Environmental Protection Trust Fund. The case numbers, case name, and Respondent's social security number or federal employer identification number must be included on the certified check or money order.
3. Respondent must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services
1020 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) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

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) (2006); *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, John Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 2, 2009, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John Therriault, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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APR 11 2008

STATE OF ILLINOIS
Pollution Control Board

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

ORIGINAL

Complainant,

AC

08-28

v.

(IEPA No. 52-08-AC)

JOSEPH COSENTINO and ROB PINSKI,

Respondents.

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2006).

FACTS

1. That Joseph Cosentino is the present owner and Rob Pinski is the current operator ("Respondents") of a facility located at 1043 N. Walnut Street, St. Johns, Perry County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as St. Johns/Cosentino-P. and E. Construction, Pinski.

2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1450200009.

3. That Respondents have owned/operated said facility at all times pertinent hereto.

4. That on February 29, 2008, Sheila Williams of the Illinois Environmental Protection Agency's Marion Regional Office inspected the above-described facility. A copy of her inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

VIOLATIONS

Based upon direct observations made by Sheila Williams during the course of her February 29, 2008 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2006).

- (2) That Respondents caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2006).

- (3) That Respondents caused or allowed the open dumping of waste in a manner resulting in deposition of clean or general construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7)(2006).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2006), Respondents are subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Four Thousand Five Hundred Dollars (\$4,500.00). If Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than May 15, 2008, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect to contest this Administrative Citation by petitioning the Illinois Pollution

Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2006), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

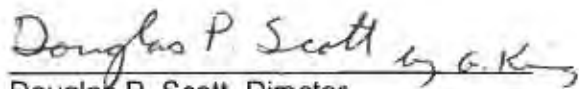
Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2006), if Respondents fail to petition or elect not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondents check shall be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Along with payment, Respondents shall complete and return the enclosed Remittance Form to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondents from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2006). If Respondents elect to contest this Administrative Citation, then Respondents shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondents.


Douglas P. Scott, Director
Illinois Environmental Protection Agency

Date: 4/8/08

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

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STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
 Complainant,)
 v.)
 JOSEPH COSENTINO and ROB PINSKI,)
 Respondents.)

ORIGINAL

AC 08-28
(IEPA No. 52-08-AC)

FACILITY: St. Johns/Cosentino- P&E Construction, Pinski

SITE CODE NO.: 1450200009

COUNTY: Perry

CIVIL PENALTY: \$4,500.00

DATE OF INSPECTION: February 29, 2008

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.