

ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
Vs)
)
DENNIS WEILER,)
)
Respondent.)

AC 11-23
(IEPA No. 65-11-AC)
(Administrative Citation)

ORIGINAL

To: The Honorable Board

MOTION TO RECONSIDER OPINION AND ORDER ENTERED 7/7/2011

Dennis Weiler, Respondent, by Roscoe D. Cunningham, his attorney, represents unto the Board:

1. That on June 13, 2011, Respondent filed his Reply to Administrative Citation, copy attached, marked "Respondent's Exhibit 1," and by reference incorporated herein.
2. That as indicated in Respondent's Exhibit 1, Respondent has serious physical problems that precluded responsive pleadings at an earlier date. That it would be a miscarriage of justice that Respondent be so seriously penalized for four days overlap in filing of the responsive pleadings.
3. Respondent did not personally deposit the offensive materials upon his property, nor did he authorize any other person so to do. Notwithstanding, Respondent has removed the bulk of such items complained of, and has thereby complied with the purpose and spirit of the Environmental Protection Act. If permitted, Respondent will continue to remove offending substances at earliest possible date commensurate with his physical strength and resources.

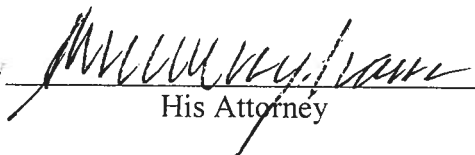
4. Respondent is without funds to appeal this matter in the court system as is prescribed by statute. Respondent has no prior convictions of any type, and fails to see how three violations are computed in this cause.

WHEREFORE, Respondent prays that the Honorable Board will reconsider its Opinion and Order herein, will reopen this cause, and will permit the Respondent to testify before the Board or any designated officer thereof as to his continuing effort to comply with the Board's every direction.

IN THE ALTERNATIVE, Respondent prays that the penalty herein be reduced to a single violation, i.e., \$1,500, and that he be allowed one year in which to pay such penalty.

Respectfully submitted,

DENNIS WEILER, Respondent

By  _____
His Attorney

Roscoe D. Cunningham
Barrister Inn, 11th & State
Lawrenceville, IL 62439
Telephone: 618-943-2300

cc: Illinois Environmental Protection Agency
P. O. Box 19276
Springfield, IL 62794-9276

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
vs)	AC
)	(IEPA No. 65-11-AC)
DENNIS WEILER,)	
)	
Respondent.)	

REPLY TO ADMINISTRATIVE CITATION

Dennis Weiler, Respondent, by Roscoe D. Cunningham, his attorney, for Reply to Administrative Citation states as follows:

1. Respondent admits that he owns the property described in Paragraph 1 of the Facts section of the Citation.
2. Respondent denies that he has any part of the dumping operation alleged under Paragraph 2 of the Facts section of the Citation.
3. Respondent admits that various representatives of the Illinois Environmental Protection Agency have been upon the premises and that he welcomes their inspections.
4. Respondent denies that he caused or allowed dumping of waste upon the premises concerned as alleged in Paragraphs 1, 2 and 3 of the Violations section of the Citation.

AS AN AFFIRMATIVE DEFENSE HEREIN, Respondent alleges that waste and other offensive materials upon the lot concerned were placed thereon by unknown persons without the consent, knowledge or approval of the Respondent.

By reason of the foregoing, Respondent requests the Illinois Pollution Control Board to waive penalty herein.

5. AS A FURTHER AFFIRMATIVE DEFENSE HEREIN, Respondent represents unto the

Illinois Pollution Control Board that he is presently removing from the premises all debris and offensive materials located thereon at own expense as his energy and monies permit, and will welcome an inspection by agents of the Board at any date after August 1, 2011.

6. Finally, Respondent alleges that he has met regulatory time limit in this cause for response hereto by having caused a letter of explanation to be sent to Director Lisa Bonnett, May 27, 2011, and that this further response is a continuation of that plea.

WHEREFORE, Respondent prays a dismissal of the Citation herein.

Respectfully submitted,

DENNIS WEILER, Respondent

State of Illinois)
) ss.
County of Lawrence)

Dennis Weiler, being first duly sworn, upon oath, states that he has read the foregoing Reply to Administrative Citation by him subscribed, that he has actual knowledge of the matters alleged therein, and that same are true and correct to the best of his knowledge and belief.

Dennis Weiler

Subscribed and sworn to before me this 13th day of June, 2011.

Notary Public

Respondent's Attorney

Roscoe D. Cunningham
Barrister Inn, 11th & State
Lawrenceville, IL 62439
Telephone: 618-943-2300

I certify that the original and a copy of the foregoing Reply to Administrative Citation was served upon the Illinois Environmental Protection Agency, Complainant herein, by mailing such copy via the U.S. Mails, postage fully prepaid, to 1021 North Grand Avenue East, P.O. Box 19276, Springfield, IL 62794-9276, this 13th day of June, 2011.

A handwritten signature in cursive script, written in black ink, positioned above a horizontal line. The signature is somewhat stylized and difficult to decipher, but appears to be a name.

LAW OFFICES OF **ROSCOE D. CUNNINGHAM, LTD.**

ROSCOE D. CUNNINGHAM
E-MAIL: ROSCOECUNNINGHAM@~~VERIZON.NET~~
frontier.com

BARRISTER INN
11TH & STATE
LAWRENCEVILLE, ILLINOIS 62439
PH. & FAX - (618) 943-2300

August 2, 2011

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AUG 05 2011
STATE OF ILLINOIS
Pollution Control Board
ORIGINAL

Clerk of the Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, IL 60601

Re: IEPA vs Dennis Weiler,
AC 11-23 (IEPA No. 65-11-AC)

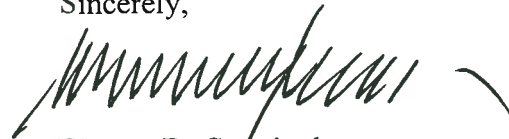
Dear Clerk:

Although we were admitted to the Bar in May, 1948, and have practiced continuously thereafter, and voted consistently with the Environmental Protection Agency when in the Legislature, never have had occasion to appear before your Court. We are suddenly aware of the jeopardy of the Respondent, albeit his total innocence.

If there be other relief available, than appeal to the courts, we will welcome your suggestion. If there is a filing fee for the enclosed Motion will promptly remit upon your advice.

Thank you for your assistance.

Sincerely,



Roscoe D. Cunningham

rdc:egs

cc: Susan E. Konzelmann, Legal Assistant
Illinois Environmental Protection Agency
Division of Legal Counsel
P. O. Box 19276
Springfield, IL 62794-9276