

ILLINOIS POLLUTION CONTROL BOARD  
July 10, 1997

COUNTY OF WILL,	)	
	)	
	)	
Complainant,	)	AC 97-17
	)	(Administrative Citation)
v.	)	
	)	
MITCH PINNICK,	)	
	)	
Respondent.	)	

DAWN R. UNDERHILL, ASSISTANT STATE'S ATTORNEY, APPEARED ON BEHALF OF COMPLAINANT; and

MITCH PINNICK APPEARED *PRO SE*.

FINAL OPINION AND ORDER OF THE BOARD (by K.M. Hennessey):

This matter comes before the Board on an administrative citation filed by the County of Will (County) against Mitch Pinnick (Pinnick). The administrative citation alleges that on August 22, 1996, Pinnick caused or allowed open burning and open dumping in a manner that resulted in violations of the Illinois Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (1996)) and Board regulations.

Under Section 31.1 of the Act (415 ILCS 5/31.1 (1996)), Pinnick filed a petition for review with the Board on October 7, 1996. A hearing on the administrative citation was held on February 21, 1997. At the hearing, Pinnick and the County entered into a settlement agreement on the record in which Pinnick admitted to open burning and open dumping violations. Pinnick further agreed to pay a total penalty of \$1,000 for these violations, to be paid in five monthly installments of \$200, beginning on March 1, 1997, and ending on July 1, 1997. Pages 6 and 7 of the hearing transcript, which set forth the settlement agreement, are attached hereto.

On May 15, 1997, the Board entered an interim opinion and order. The Board approved and incorporated the settlement agreement and found that Pinnick had engaged in open dumping in violation Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (1996)) and open burning in violation of Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (1996)). The Board also found that while the County had waived its hearing costs, the Board was entitled to hearing costs under Section 42(b)(4) of the Act (415 ILCS 5/42(b)(4) (1996)). The Board therefore ordered the Clerk of the Board to file an affidavit of hearing costs and to serve the affidavit upon Pinnick. The Board granted Pinnick 40 days from the date of the interim opinion and order to file a reply to the affidavit, after which the Board would issue a final

order. The final order would assess a civil penalty of \$500 per violation pursuant to Section 42(b)(4) of the Act, for a total penalty of \$1,000, in accordance with the settlement agreement, and assess appropriate costs.

On May 23, 1997, the Clerk of the Board filed an affidavit of costs stating that the Board's hearing costs were \$136. The Clerk also filed proof that it had served the affidavit on Pinnick on May 23, 1997. Pinnick did not respond to the Clerk's affidavit.

The Board's hearing costs of \$136 represent the actual costs for the court reporting service. The Board finds the hearing costs reasonable. Accordingly, the Board orders Pinnick to pay a total penalty of \$1,000 for his violations of Section 21(p)(1) and Section 21(p)(3) and to pay the Board's hearing costs in the amount of \$136. Under the settlement agreement, Pinnick's last monthly installment of \$200 to satisfy the \$1,000 penalty was to be paid on July 1, 1997. There is no information in the record as to whether Pinnick has paid any of the \$1,000 penalty. Accordingly, the Board orders Pinnick to pay the County any unpaid portion of the \$1,000 penalty within 30 days of the date of this order.

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

### ORDER

1. The Board finds that Pinnick has violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (1996)) and Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (1996)) and assesses Pinnick a civil penalty of \$500 for each violation, for a total penalty of \$1,000, in accordance with the settlement agreement.
2. Within 30 days of the date of this order, Pinnick must pay to the County of Will any unpaid portion of the \$1,000 penalty described in paragraph 1 of this order by certified check or money order made payable to The County of Will. Pinnick must send the payment by First Class Mail to:

The Will County Land Use Department  
Solid Waste Division  
Attn: Julie Juntunen, Waste Services Analyst,  
Solid Waste Division  
501 Ella Avenue  
Joliet, Illinois 60433

Pinnick must include the remittance form from the administrative citation and write the case name and number and his social security or federal employer identification number on the certified check or money order.

3. Within 30 days of the date of this order, Pinnick must reimburse the Board for its hearing costs in the amount of \$136 by certified check or money order made payable to the General Revenue Fund. Pinnick must send the payment by First Class Mail to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Pinnick must include the remittance form from the administrative citation and write the case name and number and his social security or federal employer identification number on the certified check or money order.

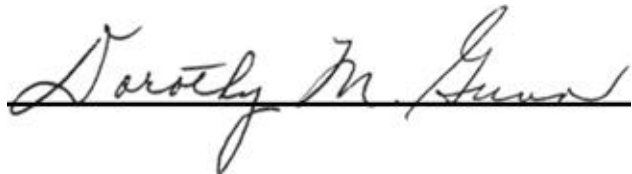
4. Penalties unpaid after the due date will accrue interest pursuant to Section 42(g) of the Act (415 ILCS 5/42(g) (1996)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

This docket is hereby closed.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 145 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 10<sup>th</sup> day of July 1997, by a vote of 6-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

1 (Discussion had off  
2 the record.)

3 MR. PINNICK: Actually, can I change my  
4 plea? I knew I was at fault.

5 THE HEARING OFFICER: Let's go back on  
6 the record.

7 Mr. Pinnick, if you would like to  
8 make a settlement offer with Miss Underhill,  
9 we can go off the record, and I can give you  
10 guys a chance to discuss that.

11 MR. PINNICK: I mean, it didn't have to  
12 go this far, so. . .

13 THE HEARING OFFICER: Okay. Let's go  
14 off the record.

15 (Discussion had off  
16 the record.)

17 THE HEARING OFFICER: Let's go ahead  
18 and go back on the record then.

19 For the record, the parties have  
20 engaged in settlement negotiations, and I  
21 believe Miss Underhill has something to say.

22 MS. UNDERHILL: Sure. We're asking for  
23 approval on a settlement agreement where  
24 Mr. Pinnick, as the respondent, has basically

1 stated that he is guilty of the violations of  
2 the open burning and open dumping which  
3 resulted in the \$1,000 violation penalty  
4 amount, and what Mr. Pinnick is asking is for  
5 the Pollution Control Board to agree to allow  
6 him to pay five payments of \$200 monthly  
7 starting March 1st with the last payment of  
8 July 1, 1997.

9 THE HEARING OFFICER: Okay. And that  
10 is acceptable to Will County?

11 MS. UNDERHILL: That is acceptable to  
12 Will County.

13 THE HEARING OFFICER: Okay.  
14 Mr. Pinnick, is that summary, is that policy,  
15 your understanding of your settlement  
16 negotiations?

17 MR. PINNICK: Yes, ma'am.

18 THE HEARING OFFICER: Okay. Well, then  
19 is there anything else that either side needs  
20 to add?

21 MR. PINNICK: Yeah. I would like to  
22 make a statement just for the record. I  
23 realize that the fire was caused by --

24 THE HEARING OFFICER: Here, wait.