

ILLINOIS POLLUTION CONTROL BOARD
July 24, 1997

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC 97-60
)	(IEPA No. 152-97-AC)
v.)	(Administrative Citation)
)	
STACY HESS,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board upon the April 25, 1997 filing of an administrative citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the Illinois Environmental Protection Agency (Agency). Service of the administrative citation was made upon Stacy Hess (Hess) on April 24, 1997. The administrative citation alleges that Hess violated Section 21(p)(1) of the Act for causing or allowing litter. 415 ILCS 5/21(p)(1) (1996). The statutory penalty established for each violation is \$500 pursuant to Section 42(b)(4) of the Act. 415 ILCS 5/42(b)(4) (1996).

On May 27, 1997, Hess filed a petition for review. Pursuant to the Act parties may appeal an administrative citation within 35 days of the date of service of the citation. 415 ILCS 5/31.1(b)(4) (1996). On July 7, 1997 the Board received a Joint Stipulation of Settlement and Withdrawal of Respondent's Petition for Administrative Review. As part of this agreement Hess denies that he violated the Act, but agrees to pay a civil penalty of \$500. The parties' settlement agreement also requests that the Board dismiss Hess' petition for review.

In the past, the Board has accepted stipulation and settlement agreements in administrative citations wherein the respondent admits to the violations. IEPA v. John Sexton Sand & Gravel Corp. (November 21, 1996), AC 97-21. However, Section 31.1(d) of the Act does not allow recognition of settlement agreements in administrative citation proceedings wherein the respondent denies the violations. 415 ILCS 5/31.1(d) (1996). Therefore, since Hess stipulated to the facts in this matter, the Board finds that Hess violated Section 21(p)(1) of the Act by causing or allowing litter. The total penalty to be imposed is \$500. Further, the Board will dismiss the petition for review.

ORDER

1. It is hereby ordered that, unless the penalty has already been paid, by January 1, 1998, respondent shall, by certified check or money order payable to the Illinois

Environmental Protection Trust Fund, pay a penalty in the amount of \$500 which shall be sent to:

Fiscal Services
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62794-9276

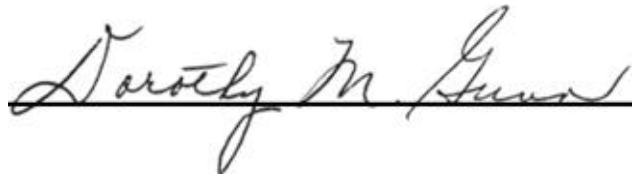
2. Respondent shall write the case name and number and his social security or federal employer identification number on the certified check or money order.
3. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
4. Payment of this penalty does not prevent future prosecution if 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 Appellate Court within 35 days of the date 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 24th day of July 1997, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board