

ILLINOIS POLLUTION CONTROL BOARD
March 7, 1996

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 96-36
)	(IEPA No. 898-95-AC)
CHARLIE FYFFE,)	(Administrative Citation)
)	
Respondent.)	
)	

ORDER OF THE BOARD:

This matter comes before the Board upon the January 29, 1996 filing of an Administrative Citation pursuant to Section 31.1 of the Environmental Protection Act (Act) by the Illinois Environmental Protection Agency (Agency). A copy of that Administrative Citation is attached hereto, but will not be printed in the Board's opinion volumes. Service of the Administrative Citation was made upon Charlie Fyffe (Fyffe) on January 17, 1996. The Agency alleges that on November 29, 1995, Fyffe, present owner and/or operator of a facility located in Wabash County and commonly known to the Agency as Mt. Carmel/Fyffe, violated Sections 21(p)(1) and 21(p)(3) of the Act. The statutory penalty established for each violation is \$500.00 pursuant to Section 42(b)(4) of the Act.

Fyffe 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 Fyffe has violated the provisions alleged in the Administrative Citation. Since there are two (2) such violations, the total penalty to be imposed is set at \$1,000.00.

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order Fyffe shall, by certified check or money order payable to the Illinois Environmental Protection Trust Fund, pay a penalty in the amount of \$1,000.00, which is to be sent to:

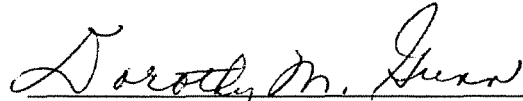
Fiscal Services
Illinois Environmental Protection Agency
2200 Churchill Road, P. O. Box 19276
Springfield, IL 62794-9276

2. Respondent shall include the remittance form and write the case name and number and his social security or federal employer identification numbers on the certified check or money order.
3. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Act.
4. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41 of the Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (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 order was adopted on the 7th day of March, 1996, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

VIOLATIONS

On the basis of direct observation of Sheila Williams, the Illinois Environmental Protection Agency has determined that Respondent has caused or allowed open dumping at the above-described facility in a manner which resulted in the following occurrences:

A. That on November 29, 1995 an on-site inspection of said facility disclosed the following:

- (1) Causing or allowing litter in violation of 415 ILCS 5/21(p)(1), (1992).
- (2) Causing or allowing open burning in violation of 415 ILCS 5/21(p)(3), (1992).

CIVIL PENALTY

Pursuant to 415 ILCS 5/42(b)(4), (1992), Respondent herein is subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraph A, for a total of One Thousand Dollars (\$1,000.00). Additionally, should Respondent 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, Respondent 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 or each finding of violation.

If you acknowledge the violations cited hereinabove, the civil penalty specified above shall be due and payable no later than March 1, 1996

If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof or if you elect to contest this Administrative Citation, any judgment rendered against you shall specify the due date of the statutory civil penalty and any costs assessed against you.

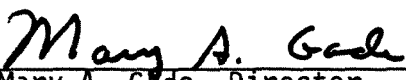
When payment is made, your check should be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 2200 Churchill Road, P.O. Box 19276, Springfield, Illinois 62794-9276. Also, please complete and return the enclosed Remittance Form, along with your payment, to assure proper documentation of payment.

If any civil penalty imposed by the Illinois Pollution Control Board is not paid within the time prescribed in the order, interest on such penalty will be assessed for the period from the date payment is due until the date payment is received. If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing is not paid when due, the Office 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, interest, 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 415 ILCS 5/31.1, (1992). 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, 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: Division of Legal Counsel.


Mary A. Gade, Director *by wcc*
Illinois Environmental Protection Agency

Prepared by: Todd Rettig
Illinois Environmental
Protection Agency
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276
(217)782-5544

Date: 1-4-95

BD:tlm\Open

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
v.)
CHARLIE FYFFE,)
Respondent.)

AC 9636
EPA 898-95-AC

FACILITY: Mt. Carmel/Fyffe

SITE CODE NO.: 1858570005

COUNTY: Wabash

CIVIL PENALTY: \$ 1,000.00

DATE OF INSPECTION: November 29, 1995

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, 2200 Churchill Road, P.O. Box 19276, Springfield, Illinois 62794-9276.