

ILLINOIS POLLUTION CONTROL BOARD
January 24, 2002

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 01-5
)	(IEPA No.323-00-AC)
BILLY HAMMOND, SR.,)	(Administrative Citation)
)	
Respondent.)	

MICHELLE M. RYAN AND JOHN J. KIM, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, APPEARED ON BEHALF OF COMPLAINANT.

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On November 1, 2001, the Board entered an interim opinion and order finding that Billy Hammond, Sr. (Hammond) violated Sections 21(p)(1) and (7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1),(7) (2000). The Board found that the Illinois Environmental Protection Agency (Agency) and the Board were entitled to hearing costs under section 42(b)(4-5) of the Act. 415 ILCS 5/42(b)(4-5) (2000). The Board directed the Agency and the Clerk of the Board to file affidavits of costs with the Board and to serve the affidavits upon Hammond. The Board granted Hammond 14 days from the date of his receipt of the affidavits to file a response. The Board stated that it would issue a final order assigning the statutory penalty and assessing the appropriate costs no earlier than 40 days after November 1, 2001.

Hammond contacted the Board in regard to the November 1, 2001 order, and on November 27, 2001, Hammond discussed his options concerning the order with Board Hearing Officer Steve Langhoff. The hearing officer informed Hammond that he could file a motion to reconsider pursuant to Section 101.520 of the Board's rules. Section 101.520 provides that a motion for reconsideration of a final Board order must be filed within 35 days after the receipt of the order. To date, the Board has received no motion for reconsideration.

On November 13, 2001, the Clerk of the Board filed an affidavit stating that the Board's hearing costs were \$176.82, and served Hammond with the affidavit on the same date by first class mail. On November 15, 2001, the Agency filed a sworn statement of hearing costs with the Board seeking \$207.90 in costs, and served Hammond with the statement on the same date by first-class mail. Hammond did not respond to either the Clerk's affidavit or the Agency's statement of hearing costs.

Accordingly, the Board orders Hammond to pay the statutory penalty of \$3,000 for violating Sections 21(p)(1) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2000)), and to pay Board and Agency hearing costs in the amount of \$176.82 and \$207.90 respectively.

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

ORDER

1. The Board finds that the respondent, Billy Hammond, Sr. (Hammond), violated Section 21(p)(1) and (7) of the Environmental Protection Act (415 ILCS 5/21(p)(1),(7) (2000)), and assesses Hammond the statutory penalty of \$3,000 for the violations. The Board's November 1, 2001 interim opinion and order is incorporated herein in its entirety.
2. Hammond must pay the \$3,000 penalty within 35 days of the date of this order. For this penalty, Hammond must make a certified check or money order payable to the Environmental Protection Trust Fund in the amount of \$3,000. Hammond must send the certified check or money order by first-class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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

3. Within 35 days of the date of this order, Hammond must reimburse the Board for hearing costs in the amount of \$176.82 by certified check or money order made payable to the General Revenue Fund. Hammond must send the payment by first-class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Hammond must write the case name and number and his social security number on the certified check or money order.

4. Within 35 days of the date of this order, Hammond must reimburse the Agency for hearing costs in the amount of \$207.90 by certified check or money order made payable to the Environmental Protection Trust Fund. Hammond must send the payment by first-class mail to:

Illinois Environmental Protection Agency

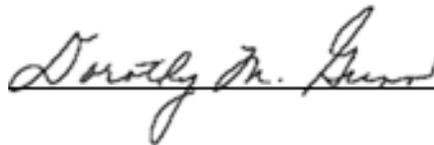
Fiscal Services Division
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5. Penalties unpaid after the due date will accrue interest pursuant to Section 42(g) of the Act. 415 ILCS 5/42(g) (2000)
6. Payment of this penalty does not prevent future prosecution if either violation continues.

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) (2000); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 24, 2002, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board