

ILLINOIS POLLUTION CONTROL BOARD

July 12, 2001

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 01-35
) (Administrative Citation)
LORRIE SPRIGGS and JODY SHORT,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by E.Z. Kezelis):

On March 22, 2001, pursuant to Section 31.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/31.1(b) (2000)), the Illinois Environmental Protection Agency (Agency) issued an administrative citation to Lorrie Spriggs (Spriggs) and Jody Short (Short). In the administrative citation, the Agency alleges that the respondents caused or allowed the open dumping of waste in a manner that resulted in litter and open burning, in violation of Sections 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2000)). The statutory penalty established for each violation is \$1,500 pursuant to Section 42(b)(4-5) of the Act. 415 ILCS 5/42(b)(4-5) (2000). The alleged violations occurred at a site located east of U.S. Route 67 on David Lane, approximately two miles south of Brighton, Jersey County, Illinois.

On April 23, 2001, Short filed a petition for review, which the Board accepted for hearing on May 3, 2001.

The record shows that Spriggs was served with the administrative citation on March 24, 2001. Spriggs has not, however, filed a petition for review with the Clerk of the Board within 35 days of the date of service (*i.e.*, on or before April 28, 2001) as required by Section 31.1(d) of the Act. 415 ILCS 5/31.1(d) (2000).

On June 26, 2001, the Agency filed a "Motion to Withdraw and for Default Order," in which the Agency seeks to withdraw the administrative citation as to Short and proceed with default against Spriggs. In support of the motion to withdraw, the Agency states that it has discovered additional information regarding Short's apparent lack of responsibility for the alleged violations. In light of the additional information, the Agency now finds it appropriate to withdraw the administrative citation against Short. The Board grants this motion and the administrative citation as to Short is hereby dismissed.

The Agency also seeks entry of a default order as to Spriggs, who has not filed a petition for review of the administrative citation. Pursuant to Section 108.406 of the Board's procedural rules (35 Ill. Adm. Code 108.406), the Board considers an administrative citation to be "non-contested" if the administrative citation recipient fails to file a timely petition for review. Section 108.500(a) of the Board's procedural rules (35 Ill. Adm. Code 108.500(a)) provides direction on how the Board will impose penalties in situations where the administrative citation is either non-contested or defaulted.

The Board finds that Spriggs has failed to contest the administrative citation (attached hereto) and is accordingly found to have violated the provisions of the Act as alleged therein.

ORDER

It is hereby ordered that:

1. Pursuant to Section 42(b)(4-5) of the Environmental Protection Act (Act) (415 ILCS 5/42(b)(4-5) (2000)) Spriggs must pay a total civil penalty in the amount of \$3,000 within 30 days of the date of this order.
2. Payment must be made in the form of a certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Sprigg's social security number or federal employer identification number should also be included on the check or money order.
3. The check or money order and the remittance form must be sent to:

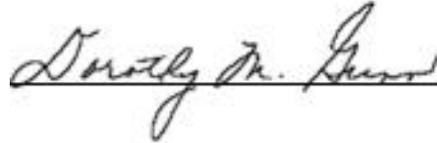
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid after 30 days of the date of this order accrue interest pursuant to Section 42(g) of the Act. 415 ILCS 5/42(g) (2000).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (2000)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.520, Motions for Reconsideration.

Board Member T.E. Johnson abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 12th day of July 2001 by a vote of 4-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board