

ILLINOIS POLLUTION CONTROL BOARD
March 31, 1994

SANGAMON COUNTY,)
)
 Complainant,)
)
 v.) AC 94-6
) (County No. SCDPH-94-AC-1)
) (Administrative Citation)
 D. RAY SMITH,)
)
 Respondent.)

ORDER OF THE BOARD:

This matter comes before the Board upon a February 3, 1994 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by Sangamon County. 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 D. Ray Smith on February 3, 1994. Sangamon County alleges that on January 12, 1994, D. Ray Smith, present owner and/or operator of a facility located in Sangamon County and commonly known to the Agency as Springfield Township/Smitty's TV, violated Section 21(p)(1) of the Act. The statutory penalty established for this violation is \$500.00 pursuant to Section 42(b)(4) of the Act.

D. Ray Smith 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 D. Ray Smith, has violated the provision alleged in the Administrative Citation. Since there is one (1) such violation, the total penalty to be imposed is set at \$500.00.

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order D. Ray Smith shall, by certified check or money order payable to the Sangamon County Department of Public Health, pay a penalty in the amount of \$500.00, which is to be sent to:

James D. Stone, Director
Sangamon County Department of Public Health
200 South Ninth Street, Room 301
Springfield, Illinois 62701

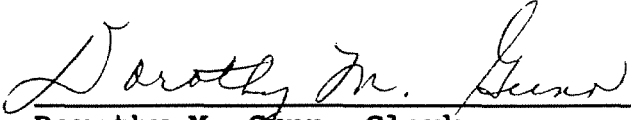
2. Respondent shall include the remittance form and write the case name and number and their social security or federal Employer Identification Number on the certified check or money order.

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 the violation continues.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 31st day of March, 1994, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

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 STATE OF ILLINOIS
 POLLUTION CONTROL BOARD

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
 ADMINISTRATIVE CITATION**

SANGAMON COUNTY,)
)
 Complainant,)
)
 -vs-)
)
 D. RAY SMITH,)
)
 Respondent.)

AC 94-6
Administrative Citation
SCDPH-94-AC-1

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/31.1 (1993), and delegated to Sangamon County pursuant to 415 ILCS 5/4 (r) (1993).

FACTS

1. That the Respondent, D. Ray Smith, is the present operator of a facility located in the County of Sangamon, State of Illinois.
2. That said Facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with Site Code No. 1671200175. Said facility is commonly known to the Agency as Spfld. Twp./Smitty's TV.
3. That the Respondent, D. Ray Smith, has operated said facility at all times pertinent hereto.
4. That on January 12, 1994, Jerry Ferguson, Solid Waste Specialist, with the Sangamon County Department of Public Health, inspected the above-described facility. A copy of the inspection report setting forth the results of such inspection is attached hereto and made a part hereof.

VIOLATIONS

On the basis of the direct observations of Jerry Ferguson, Sangamon County has determined that the Respondent has caused or allowed open dumping at the above-described facility in a manner which resulted in the following occurrences:

A. That on January 12, 1994, an on-site inspection of said facility disclosed the following:

- Causing or allowing litter (415 ILCS 5/21 (p) (1) (1993)).
- Causing or allowing scavenging operations (415 ILCS 5/21 (p) (2) (1993)).
- Causing or allowing open burning (415 ILCS 5/21 (p) (3) (1993)).
- Causing or allowing the deposition of waste in standing or flowing waters (415 ILCS 5/21 (p) (4) (1993)).
- Causing or allowing proliferation of disease vectors (415 ILCS 5/21 (p) (5) (1993)).
- Causing or allowing the generation of standing or flowing liquid discharge from the open dump site (415 ILCS 5/21 (p) (6) (1993)).

CIVIL PENALTY

Pursuant to 415 ILCS 5/42 (b) (4) (1993), the Respondent herein is subject to a civil penalty of five hundred dollars (\$500.00) for each violation specified above in Paragraph A and subparagraphs thereunder, for a total of \$500.00. Additionally, should the Respondent elect to petition the Illinois Pollution Control Board under the review process described herein below, and if there is a finding of the violations alleged herein, after an adjudicatory hearing, the Respondent shall be assessed the associated hearing costs incurred by Sangamon County and the Illinois Pollution Control Board, in addition to the five hundred dollar (\$500.00) statutory penalty for each finding of violation.

If you acknowledge the violations cited hereinabove, the civil penalty specified above shall be due and payable no later than thirty five (35) days from the date of service of this Administrative Citation. If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within the 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 Sangamon County Department of Public Health and mailed to the attention of James D. Stone, Director, 200 South Ninth Street, Room 301, Springfield, Illinois, 62701. Also, please complete and return the enclosed Remittance Form to assure proper documentation of your payment.

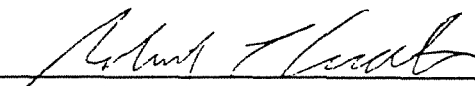
If any civil penalty imposed by the Illinois Pollution Control Board is not paid within the time prescribed in the Order, interest on such penalty shall be assessed for the period from the date payment was due until the date payment was received. If any civil penalty, by reason of acknowledgement, default, or finding after adjudicatory hearing, is not paid when due, either the Office of the Illinois Attorney General or the Office of the Sangamon County State's Attorney 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 Sangamon County and the Illinois Pollution Control Board, if any, either the Attorney General's Office or the State's Attorney's Office shall seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation. 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 Sangamon County Department of Public Health. 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 must be filed with the Clerk of the Illinois Pollution Control Board at the State of Illinois Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois, 60601, and a copy of said Petition for Review filed with the Sangamon County Department of Public Health, 200 South Ninth Street, Room 301, Springfield, Illinois, 62701. The procedure for filing a Petition for Review can be found in 415 ILCS 5/31.1 (1993), and Part 101 of Title 35 of the Illinois Administrative Code.

Date: February 1, 1994

James D. Stone, Director
SANGAMON COUNTY
DEPARTMENT OF PUBLIC HEALTH

BY: 
Robert L. Smith

Prepared by: Robert L. Smith
Assistant State's Attorney
Sangamon County State's Attorney's Office
200 South Ninth Street, Room 402
Springfield, IL 62701
(217) 753-6690

REMITTANCE FORM

SANGAMON COUNTY)
)
 Complainant,)
)
 -vs-)
)
 D. RAY SMITH,)
)
 Respondent.)

ac 94-6
Adminisitrative Citation
SCDPH-94-AC-1

FACILITY: SPFLD. TWP./SMITTY'S TV

SITE CODE: 1671200175

COUNTY: SANGAMON

CIVIL PENALTY: \$ 500.00

DATE OF INSPECTION: January 12, 1994

DATE REMITTED: _____

S.S.#/F.E.I.N.: _____

SIGNATURE: _____

NOTE

Please enter the date of your remittance, your social security number (S.S.#) if an individual, or your Federal Employer Identification Number (F.E.I.N.) if a corporation, and sign this Remittance Form. Be sure that your check is enclosed and mail with this form to James D. Stone, Director, Sangamon County Department of Public Health, 200 South Ninth Street, Room 301, Springfield, Illinois, 62701.

JDS:vh