

ILLINOIS POLLUTION CONTROL BOARD
June 30, 1994

MONTGOMERY COUNTY,)	
)	
Complainant,)	
)	
v.)	AC 93-45
)	(Administrative Citation)
RITA HEFLEY,)	
)	
Respondent.)	

KATHERINE DOBRINIC, MONTGOMERY COUNTY STATE'S ATTORNEY APPEARED
ON BEHALF OF MONTGOMERY COUNTY, and

RITA HEFLEY APPEARED *PRO SE*.

OPINION AND ORDER OF THE BOARD (by M. McFawn):

On April 21, 1994, the Board issued an interim opinion and order in this matter, finding that the respondent violated Sections 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (1992)) on July 23, 1993. Having found a violation of the Act, the Board must assess the appropriate penalty for the violation.

Penalties in administrative citation actions are prescribed by Section 42(b)(4) of the Act which states:

In an administrative citation action under Section 31.1 of this Act, any person found to have violated any provision of subsection (o) or (p) of Section 21 of this Act shall pay a civil penalty of \$500 for each violation of each such provision, plus any hearing costs incurred by the Board and the [Illinois Environmental Protection] Agency. Such penalties shall be made payable to the Environmental Protection Trust Fund to be used in accordance with the provisions of the Environmental Protection Trust Fund Act except if a unit of local government issued the administrative citation, 50% of the civil penalty shall be payable to the unit of local government.

(415 ILCS 5/42(b)(4) (1992).)

Since the Board found one such violation, the penalty to be imposed against respondent is \$500.00 plus hearing costs.

The interim opinion and order requested affidavits from Montgomery County and the Clerk of the Board to determine hearing costs. Costs were requested from Montgomery County in lieu of the Illinois Environmental Protection Agency, since the County was the delegated authority that prosecuted this action. On May

20, 1994¹, the Clerk of the Board filed an affidavit stating that the Board's hearing costs were one hundred forty-one dollars (\$141.00). Montgomery County did not file a statement of costs. Furthermore, respondent has not filed an objection to the affidavit of costs filed by the Clerk of the Board. Therefore, the total hearing cost to be assessed against respondent is one hundred forty-one dollars (\$141.00).

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

ORDER

1. Respondent Rita Hefley is hereby found to have violated 415 ILCS 5/21(p)(1) (1992) on July 23, 1993.
2. Within 45 days of this order respondent shall, by certified check or money order, pay a civil penalty in the amount of five hundred dollars (\$500.00) which is to be sent by First Class mail to:

Mr. Tom Larson, Director
Montgomery County Health Department
South Route 185
Hillsboro, IL 62049

Respondent shall also include the remittance form with the payment.

3. It is hereby ordered that within 45 days of the date of this order, respondent shall, by certified check or money order payable to the State of Illinois, designated for deposit to the General Revenue Fund, pay as compensation for hearing costs incurred by the Board, the amount of one hundred forty-one dollars (\$141.00) which is to be sent by First Class mail to:

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

4. Respondent shall write the case name and number and social security or federal Employer Identification Number on each certified check or money order.

¹ The Clerk of the Board filed an amended affidavit on May 25, 1994 correcting the case caption.

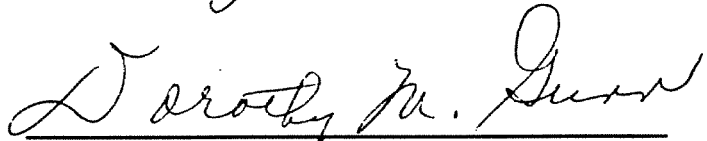
5. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
6. This docket is hereby closed.

IT IS SO ORDERED.

J. Theodore Meyer dissented.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board 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, Motion 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 30th day of June, 1994, by a vote of 5-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board