

ILLINOIS POLLUTION CONTROL BOARD
July 18, 1996

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|------------------------|---|---------------------------|
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | AC 96-37 |
| |) | (IEPA No. 34-96AC) |
| v. |) | (Administrative Citation) |
| |) | |
| MIDWEST EXCAVATING, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by E. Dunham):

This matter is before the Board on a "Motion to Dismiss Petition for Review" filed by respondent on July 5, 1996. The respondent seeks to withdraw its petition for review and asserts that the required penalty was paid on or about June 28, 1996.

On February 6, 1996, an Administrative Citation was filed with the Board pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the Illinois Environmental Protection Agency (Agency). The Agency alleges that on December 13, 1995, a facility operated by respondent in the County of Franklin was inspected by the Agency. Based on this inspection the Agency alleges that respondent was in violation of Section 21 (p) (1), of the Act. The statutory penalty established for each violation is \$500.00 pursuant to Section 42(b) (4) of the Act. Therefore, respondent was subject to a total penalty of \$500.00 for the alleged violation.

The Board hereby grants respondent's motion to dismiss the petition for review. Therefore, pursuant to Section 31.1 (d) (1), the Board finds that Midwest Excavating violated the provisions alleged in the Administrative Citation. Since there is one (1) such violation, the total penalty to be imposed is \$500.00

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order the respondent shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay a penalty in the amount of \$500.00 which is to be sent to:

Illinois Environmental Protection Agency

Fiscal Services Division
2200 Churchill Road
Springfield, IL 62706.

2. Respondent shall include the remittance form and write the case name and number and its 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.

This docket is hereby closed.

IT IS SO ORDERED.

Section 41 of the Environmental Protection 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 ____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board