

ILLINOIS POLLUTION CONTROL BOARD
June 1, 1995

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 94-94
)	(IEPA No. 549-94-AC)
)	(Administrative Citation)
WAYNE D. ALBERTS and)	
SHARON J. ALBERTS,)	
)	
Respondent.)	

ORDER OF THE BOARD (By J. Yi):

This matter comes before the Board upon an October 28, 1994 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the Illinois Environmental Protection Agency (Agency). 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 Wayne D. Alberts and Sharon J. Alberts on October 31, 1994. The Agency alleges that on September 8, 1994, Wayne D. Alberts and Sharon J. Alberts, present owners and/or operators of a facility located in the County of Logan and commonly known to the Agency as Atlanta/Alberts, 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. (415 ILCS 5/42(b) (1993).)

Wayne D. Alberts and Sharon J. Alberts filed a petition for review with the Clerk of the Board on December 5, 1994, within 35 days of the date of service as allowed by Section 31.1(d)(2) of the Act. On May 9, 1995, the respondents mailed to the Board a withdrawal of appeal, which was received on May 16, 1995, and sent a copy to the assigned hearing officer by facsimile. The hearing in this case was held on May 10, 1995 at the offices of the Board in Springfield, Illinois. The only people in attendance were the hearing officer, the court reporter, the Agency attorney and witness. No members of the public attended. At hearing the withdrawal of appeal was entered into the record, no witnesses or evidence were presented.

Therefore, the respondents having withdrawn their petition for review, the Board pursuant to Section 31.1(d)(1) finds that Wayne D. Alberts and Sharon J. Alberts violated the provision alleged in the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. Pursuant to Section 42(b) of the Act, if respondent does not prevail at hearing, the costs of the hearing are assessed. However, even though a hearing was held and respondents were found in violation, under these unique circumstances the Board will not assess hearing costs against the respondents.

ORDER

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

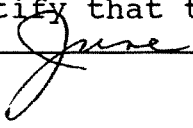
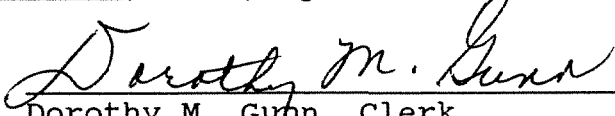
Fiscal Services
Illinois Environmental Protection Agency
2200 Churchill Road, P. O. Box 19276
Springfield, Illinois 62794-9276

2. Respondents 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.

IT IS SO ORDERED.

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.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 1st day of June, 1995, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board