

ILLINOIS POLLUTION CONTROL BOARD
October 6, 1994

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 94-1
) (Enforcement)
ROBERT D. FOSNOCK, d/b/a)
FOS AUTO AND TRUCK PARTS,)
)
Respondent.)

SUPPLEMENTAL ORDER OF THE BOARD (by C.A. Manning):

On September 15, 1994, we entered our opinion and order finding the respondent, Robert D. Fosnock, in violation of Section 55(a), (a)(6), (c), (d)(2), (e) and (j) of the Used Tire Management provisions of the Environmental Protection Act (Act), Sections 21(a), (d)(1), (d)(2), (e) and (p)(5) of open dumping provisions of the Act, and 35 Ill. Adm. Code 848.201(b) and 848.501(a) 848.202(a), (b), and (c), 848.400(b), 848.401(a), and 848.404(a) 848.202(a), (b), and (c), 848.400(b), 848.401(a), and 848.404(a). We also awarded the State of Illinois a cease and desist order, a penalty in the amount of \$156,250.00, and the Attorney General of Illinois' attorneys' fees and costs. We directed that the Attorney General file an affidavit of fees and costs within seven days of receipt of our order and that Fosnock may file a response within seven days thereafter.

On September 27, 1994, we received an affidavit from Assistant Attorney General James L. Morgan, stating he expended 13 hours in preparation and hearing time in this matter, and that he believed his services should be charged at \$150.00 per hour. Fosnock filed no response to the affidavit.

Section 42(f) of the Act provides that reasonable attorneys fees and costs may be awarded when the Attorney General has prevailed against a person who has committed a willful, knowing or repeated violation of the Act. Pursuant to Section 42(f), we find that 13 hours is a reasonable number of hours spent in the prosecution of this case. We also find that \$100.00 per hour is a reasonable rate for an attorney employed by the State of Illinois. (See People v. Freedom Oil (May 6, 1994) PCB 93-59, slip op. at 11 and supplemental opinion, People v. Freedom Oil (June 6, 1994) PCB 93-59.)

Accordingly, we award the Office of the Attorney General one thousand and three hundred dollars (\$1300). The respondent is directed to make such payment within 35 days of the date of this order by certified check or money order payable to the Treasurer of the State of Illinois, designated for deposit to the Hazardous

Waste Fund, and shall be sent by First Class mail to:

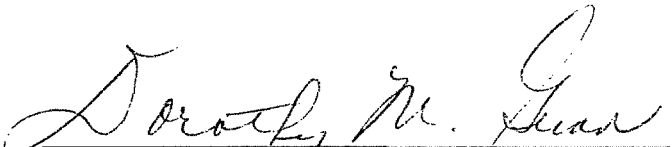
Illinois Environmental Protection Agency
Fiscal Service Division
2200 Churchill Road
Springfield, IL 62706

The certified check or money order shall clearly indicate on its face, the case name and number, Robert D. Fosnock's federal employer identification number or social security number, and that payment is directed to the Hazardous Waste Fund.

IT IS SO ORDERED.

J.Theodore Meyer concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 6th day of October, 1994, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board