

ILLINOIS POLLUTION CONTROL BOARD
January 10, 1991

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 89-289 (Dockets A & B)
) (IEPA Case No. 10066-AC)
) (Administrative Citation)
JAMES GILMER,)
)
Respondent.)

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 89-290 (Dockets A & B)
) (IEPA Case No. 10067-AC)
) (Administrative Citation)
ARCHER-DANIELS-MIDLAND,)
)
Respondent.)

ORDER OF THE BOARD BY (J. C. Marlin):

This matter comes before the Board on a January 4, 1991 "Motion For Leave to Withdraw Petition For Review" filed by the respondents, James Gilmer and Archer-Daniels-Midland. The Illinois Environmental Protection Agency (Agency) filed these administrative citations with the Board on December 13, 1989. James Gilmer filed a petition for review with the Board on January 8, 1990. Archer-Daniels-Midland filed a petition for review with the Board on January 16, 1990. The Board granted the complainants' motion to consolidate on March 22, 1990. A hearing was held in this matter on July 31, 1990. The Board hereby grants respondents' motion to withdraw the petition for review.

On December 13, 1989, two Administrative Citations were filed with the Board pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the Illinois Environmental Protection Agency. A copy of those Administrative Citations is attached hereto, but will not be printed in the Board's Opinion Volumes. Service of the Administrative Citations was made upon James Gilmer and Archer-Daniels-Midland on December 13, 1989. The Agency alleges in AC 89-289 that on October 16, 1989, James Gilmer, present operator of a facility located in the County of Douglas, violated Section 21(g)(1) of the Act. In AC 89-290 the Agency alleges that Archer-Daniels-Midland violated Section

21(q)(1) of the Act. The statutory penalty established for each violation is \$500.00 pursuant to Section 42(b)(4) of the Act.

The respondents have now withdrawn their petitions for review. Therefore, pursuant to Section 31.1(d)(1), the Board finds that James Gilmer has violated the provisions alleged in the AC 89-289. The Board also finds that Archer-Daniels-Midland has violated the provisions alleged in AC 89-290. Since there is one (1) violation in AC 89-289 and one (1) violation in AC 89-290, the total penalty to be imposed on James Gilmer is \$500.00 and the total penalty to be imposed on Archer-Daniels-Midland is \$500.00.

It is hereby ordered that, unless the penalties have already been paid, within 30 days of the date of this Order James Gilmer and Archer-Daniels-Midland 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 each, which is to be sent to:

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

For purposes of review, today's action constitutes final action on Docket A in this matter, dealing with the civil penalty for a violation of Section 21 of the Act. The Clerk is hereby ordered to open Docket B in this matter pertaining to hearing costs pursuant to Section 42(b)(4) of the Act.

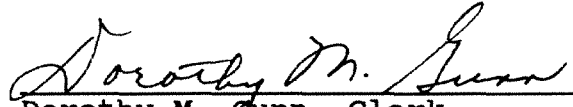
In addition to the above penalty, James Gilmer and Archer-Daniels-Midland shall pay any hearing costs incurred by the Board and the Agency. Therefore, within 30 days of this Order, the Illinois Environmental Protection Agency shall file a statement of hearing costs with the Board, supported by affidavit and with service upon James Gilmer and upon Archer-Daniels-Midland. Within that same 30 days, the Clerk of the Pollution Control Board shall file a statement of the Board's costs, supported by affidavit and with service upon James Gilmer and upon Archer-Daniels-Midland. Such filings shall be entered in Docket B.

Respondents are hereby given leave to file a reply/objection to the filings as ordered above within 45 days of this Order.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1987 ch. 111 1/2, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

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 10th day of January, 1991, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board