

ILLINOIS POLLUTION CONTROL BOARD
May 25, 1989

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Petitioner,)
)
v.) AC 89-2
)
FRANK WILNER,)
)
Respondent.)

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter comes before the Board upon a Motion to Amend an Administrative Citation filed May 22, 1989 by the Illinois Environmental Protection Agency (Agency).

Pursuant to a November 7, 1988 inspection, the Agency filed a January 9, 1989 Administrative Citation in which the Agency assessed a penalty of Five Hundred Dollars (\$500) for violation of Section 21(p)(5) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1987, ch. 111-1/2, par. 1021(p)(5)) and a \$500 penalty for violation of Section 21(p)(11) of the Act (Ill. Rev. Stat. 1987, ch. 111-1/2, par. 1021(p)(11)). Section 21(p)(5) of the Act provides that it is a violation of the Act to operate a sanitary landfill in a manner which results in "uncovered refuse remaining from any previous operating day" and Section 21(p)(11) of the Act authorizes the imposition of a penalty for the "failure to submit reports required by permits or Board regulations."

In its Motion to Amend, the Agency states that, pursuant to negotiations, respondent has: (1) reapplied for an approved closure/post-closure plan; (2) acknowledged violation of Section 21(p)(5) of the Act; and (3) paid to the State \$500 for violation of Section 21(p)(5) of the Act. In response, the Agency has agreed to dismiss the violation of Section 21(p)(11) of the Act. Lastly, the Agency states that, on May 18, 1989, it received respondent's payment of \$500 for violation of Section 21(p)(5) of the Act. The Agency moves the Board to strike the violation of Section 21(p)(11) of the Act from the citation and to note payment of the \$500 penalty.

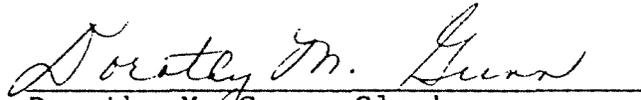
The Agency's Motion to Amend is hereby granted. The alleged violation of Section 21(p)(11) of the Act is stricken from the citation. On January 12, 1989, respondent filed a Petition for

Review contesting the citation. Given the Board's granting of the Agency's Motion to Amend, respondent's Petition for Review is hereby dismissed.

Respondent acknowledges violation of Section 21(p)(5) of the Act and does not contest this provision of the Administrative Citation. The Board finds that respondent has violated Section 21(p)(5) of the Act. Pursuant to Section 42(b)(4) of the Act, a penalty of \$500 is imposed for this violation. The Board notes that respondent has paid the \$500 penalty imposed for violation of Section 21(p)(5) of the Act.

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 25th day of May, 1989, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board