

ILLINOIS POLLUTION CONTROL BOARD
November 15, 2001

COUNTY OF SANGAMON,)
)
Complainant,)
)
v.) AC 02-10
) (SCDPH No. 01-AC-1)
TRUST TR-98-202, MARK K. VINCENT,) (Administrative Citation)
trustee, and FRANK REYNOLDS,)
)
Respondents.)

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

On September 27, 2001, the County of Sangamon (County) timely filed an administrative citation against Trust TR-98-202, Mark K. Vincent, trustee, and Frank Reynolds (respondents). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The County alleges that respondents violated Section 21(p)(1) and (p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3) (2000)). The County further alleges that respondents violated these provisions by causing or allowing open dumping of waste in a manner resulting in litter and open burning in Springfield, Sangamon County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, the County served the administrative citation on respondents within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2000); *see also* 35 Ill. Adm. Code 108.202(b). To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2000); 35 Ill. Adm. Code 108.204(b), 108.406. Here, respondents failed to timely file a petition. However, on November 9, 2001, the parties filed a stipulation and proposal for settlement. The Board will construe the joint filing as a waiver of the default deadline.

Pursuant to the terms of the stipulation and proposal for settlement, respondents do not admit the allegations contained in the administrative citation.

This opinion constitutes the Board’s finding of fact and conclusions of law.

ORDER

1. Pursuant to the stipulated agreement, the Board finds Trust TR-98-202, Mark K. Vincent, trustee, and Frank Reynolds (respondents) violated Section 21(p)(1) of the Act and dismisses the alleged violation of Section 21(p)(3). 415 ILCS 5/21(p)(1), (p)(3) (2000). Accordingly, respondents must pay a civil penalty of

\$1,500 in \$300 installments on January 15, 2002, on March 15, 2002, on May 15, 2002, on July 15, 2002, and on September 15, 2002.

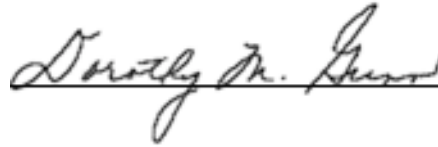
2. Respondents must pay the civil penalty by certified check or money order, made payable to the Sangamon County Department of Public Health. The case number, case name, and Frank Reynold's social security number must be included on the certified check or money order.
3. Respondents must send the certified check or money order and the remittance form to:

Sangamon County Department of Public Health
Attention: Scott B. Kains
2501 North Dirksen Parkway
Springfield, Illinois 62702
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 15, 2001, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board