

ILLINOIS POLLUTION CONTROL BOARD

March 7, 1996

COUNTY OF DU PAGE,)
)
 Complainant,)
)
 v.) AC 96-28
) (County No. 95CD893, 95SA893)
 JOSEPH F. CANTORE,) (Administrative Citation)
)
 Respondent.

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

This matter is before the Board upon the December 6, 1995 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the county of Du Page (County). A copy of the Administrative Citation is attached hereto, but will not be printed in the Board's Opinion Volumes.

Service of the Administrative Citation was made upon Joseph F. Cantore (Cantore) on December 5, 1995. The County alleges that on October 5, 1995, Cantore, present owner of a storage yard facility located at 915 North Riverside Drive, Elmhurst, County of Du Page, Illinois, violated Section 21(p)(1) of the Act. The statutory penalty established for each violation is \$500.00 pursuant to Section 42(b)(4) of the Act.

Cantore filed a Petition for Review on January 10, 1996. On February 20, 1996, Cantore filed a Motion to Withdraw the Petition for Review, admitting to the violation and stating that the penalties have been paid. The Board grants the motion, and therefore, pursuant to Section 31.1.(d), finds that Cantore has violated the provisions alleged in the Administrative Citation. Since there is one (1) such violation, the total penalty to be imposed is set at \$500.00.

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order, Cantore shall, by certified check or money order payable to the Du Page County Treasurer, pay a penalty in the amount of \$500.00, which is to be sent to:

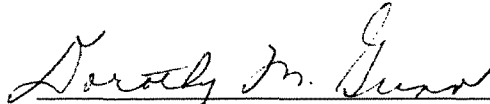
Mr. Rodd Elges
Du Page County Solid Waste Department
421 North County Farm Road
Wheaton, Illinois 60187

2. Respondent shall include the remittance form and write the case name and number and his social security or federal Employer Identification Numbers 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 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. 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 7th day of March, 1996, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

COUNTY OF DUPAGE,)
)
) Petitioner,)
 v.) AC 96-28,)
) State's Attorney)
 JOSEPH F. CANTORE,) Files Nos. 95CD893)
) 95SA893)
) Respondent.)

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by Public Act 84-1320 (Illinois Compiled Statutes, 1992, Ch. 415, par. 5/31.1), and delegated to DuPage County pursuant to Illinois Compiled Statutes, 1992, Ch. 415, par. 5/4.

FACTS

1. Respondent, Joseph F. Cantore, is the present owner of property located at 915 North Riverside Drive, Elmhurst, in the County of DuPage, State of Illinois.
2. The subject property is used as a storage yard for landscape waste and other debris.
3. Respondent has owned subject property at all times pertinent hereto.
4. On June 20, 1995, an inspection of the subject property was conducted by Darlene Lynch, inspector with the County of DuPage. The inspection was prompted by complaints by nearby residents that the storage yard was emitting foul odors. Various apparent violations were observed and documented during the inspection. (A copy of the June 20, 1995 inspection report is attached as Exhibit A, and incorporated herein by reference).
5. Pursuant to the inspection, an Administrative Warning Notice ("AWN") was filed on June 30, 1995 and served upon Respondent. (A copy of the AWN is attached as Exhibit B, and incorporated herein by reference). Among the violations cited in the AWN was the presence of litter under Section 21(p)(1). The AWN required that Respondent submit a response setting forth the reasons for the apparent violations and describing in detail a plan for corrective action.
6. On July 11, 1995, Mr. Jay DeGarmo, general manager of the subject property, filed a response to the AWN which stated their corrective action would include modified language in

This filing submitted on recycled paper

their leases to encompass "any and all local, state, and federal compliance with regulations in regard to the environment as well as more frequent monitoring." Mr. DeGarmo also stated that he was sure the site would be clear upon a reinspection. (A copy of response is attached as Exhibit C, and incorporated herein by reference).

7. A second inspection of the subject property was conducted on August 21, 1995. Inspector Lynch observed and documented apparent violations that were similar or identical to those originally documented in the initial inspection on June 30, 1995. (A copy of August 21, 1995 inspection report and accompanying photographs are attached as Exhibit D, and incorporated herein by reference).
8. On October 5, 1995, a follow-up inspection of the subject property was conducted by Darlene Lynch and trainee Rhonda McBride to determine if any action had been taken to clean up the storage yard since the filing the Administrative Warning Notice. The inspectors observed, photographed and documented the presence of litter, plastic items, containers, a 55 gallon drum, landscape waste, a waste tire, and general refuse on the ground at the subject site. (A copy of October 5, 1995 inspection report is attached as Exhibit E, and incorporated herein by reference; a copy of the photographs taken of the subject property at the time of the inspection are attached as Exhibits F1-10, and incorporated herein by reference).

VIOLATIONS

On the basis of the direct observations of Darlene Lynch, the County of DuPage has determined that Respondent was conducting a solid waste management site at the above-described facility, which is required to have a permit pursuant to Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(d), in a manner which resulted in the following conditions:

- A. That on October 5, 1995 an on-site inspection of subject property disclosed the following:

 X Cause or allow the open dumping of any waste in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(a).

 X Conducting any waste-storage, waste treatment, or waste disposal operation without a permit granted by the Agency in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(d).

 X Conducting any waste-storage, waste treatment, or waste disposal operation in violation of any regulations or standards adopted by the Illinois

Pollution Control Board in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(d)(2).

 X Causing or allowing the development and/or operation of a solid waste management site without a permit issued by the Agency in violations of Sections 807.201 and 807.202 of the Pollution Control Board Regulations.

 X Cause or allow litter in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(p)(1).

 X Cause or allow open dumping of any used or waste tire in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/55(a).

CIVIL PENALTY

Pursuant to Illinois Compiled Statutes, 1992, Ch. 415, par. 5/42(b)(4), Respondent herein is subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraph A. As set forth in the Act, however, this Administrative Citation is limited to the prohibition of litter, as specified in Illinois Compiled Statutes, 1992, Ch. 415, pars. 5/31.1(a) and 5/21(p)(1). The remaining violations identified above in Paragraph A are enforceable and, if necessary, may be brought against Respondent under separate provisions of the Act.

Should Respondent elect to petition the Illinois Pollution Control Board under the review process described herein below, and if there is a finding of the violation(s) alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the DuPage County State's Attorney and the Illinois Pollution Control Board, in addition to the Five Hundred Dollar statutory penalty for each finding of violation.

If you acknowledge the violation(s) cited hereinabove, the civil penalty specified above shall be due and payable no later than January 10, 1996. If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof or if you elect to contest this Administrative Citation, any judgment rendered against you shall specify the due date of the statutory civil penalty and any costs assessed against you.

When payment is made, your check should be made payable to the DuPage County Treasurer, and mailed to the attention of Rodd Elges, DuPage County Solid Waste Department, located at 421 N. County Farm Road, Wheaton, Illinois 60187. You must also complete and return the enclosed Remittance Form, along with your payment, to assure proper documentation of payment.

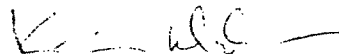
If any civil penalty by reason of acknowledgement, default or finding after adjudicatory hearing, is not paid when due, the Illinois Environmental Protection Agency shall take into consideration such failure to pay during any permit review process upon your application for a new permit or for renewal of an existing permit. If any civil penalty imposed by the Illinois Pollution Control Board is not paid within the time prescribed in the order, interest on such penalty will be assessed for the period from the date payment is due until the date payment is received.

Furthermore, if payment is not received when due, the DuPage County State's Attorney may initiate proceedings in Circuit Court to collect said civil penalty, interest, and hearing costs of the Illinois Pollution Control Board, in any, the State's Attorney will seek to recover their costs of litigation.

**PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION**

You have the right to contest this Administrative Citation. See Public Act 84-1320 (Illinois Compiled Statutes, 1992, Ch. 415, par. 5/31). If you elect to contest this Administrative Citation, you must file a petition for Review with the Clerk of the Illinois Pollution Control Board.

Such Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation, or a default judgment shall be entered by the Pollution Control Board. The Petition for Review should be filed with the Clerk of the Illinois Pollution Control Board at the State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of the Petition for Review should be filed with the Dupage County State's Attorney at 505 N. County Farm Road, Wheaton, Illinois 60187, Attention: Kevin D. Mack.



Kevin D. Mack
Assistant State's Attorney
For: Anthony M. Peccarelli
DuPage County State's Attorney

Date: December 5, 1995

Kevin D. Mack, for
Anthony M. Peccarelli
DuPage County
Office of the State's Attorney
505 N. County Farm Road
Wheaton, Illinois 60187
(708) 682-7050
Attorney No. 50000

REMITTANCE FORM

COUNTY OF DUPAGE,)
)
 Complainant,)
)
 v.) AC 96-28
) (County No. 95CD893,
) 95SA893)
) (Administrative Citation)
 JOSEPH F. CANTORE,)
)
 Respondent.)

FACILITY: Cantore Property

SITE CODE #: 0430355131

COUNTY: DuPage

CIVIL PENALTY: \$500.00

DATE OF INSPECTION: October 5, 1995

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual, or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check, made payable to the DuPage County Treasurer is enclosed and mail it, along with the Remittance Form to: Mr. Rodd Elges, DuPage County Solid Waste Department, 421 North County Farm Road, Wheaton, Illinois 60187.

