

ILLINOIS POLLUTION CONTROL BOARD

May 6, 2004

ILLINOIS ENVIRONMENTAL,)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	AC 03-27
v.)	(IEPA No. 144-03-AC)
)	(Administrative Citation)
VINCE HARVEY,)	
)	
Respondent.)	

MICHELLE RYAN APPEARED ON BEHALF OF THE ILLINOIS ENVIRONMETNAL PROTECTION AGENCY; and

VINCE HARVEY APPEARED *PRO SE*.

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

Today's final order requires the payment of \$3,347.34 in civil penalties and hearing costs resulting from an administrative citation issued by the Illinois Environmental Protection Agency (Agency), to Vince Harvey (respondent). In the administrative citation the complainant alleged that, at his property in Kewanee, Henry County, respondent violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (Act), 415 ILCS 5/21 (p)(1), (p)(7)(2002).

On April 1, 2004 the Board entered an interim opinion and order finding that the presence of materials observed on January 31, 2003, on Vince Harvey's property constituted the open dumping of waste resulting in litter and in the deposition of demolition debris in violation of the Act. The Board assessed a civil penalty of \$3,000 against respondent for these violations of Section 21(p)(1) and (p)(7) of the Act.

The Board further found that the complainant and the Board were entitled to hearing costs pursuant to Section 42(b)(4) of the Act. The Board directed the Agency and the Clerk of the Board to file and serve any affidavits of costs within 14 days, and allowed respondent 14 days in which to file any reply or objection. The Board stated that it would thereafter issue a final order assessing the statutory penalty and any appropriate costs.

On April 6, 2004, the Clerk of the Board submitted an affidavit stating that the Board's costs were \$229.50. On April 8, 2004, the Agency submitted an affidavit stating that the Agency's costs were \$117.84. The respondent has not filed any replies or objections. Accordingly, the Board orders respondent to pay hearing costs of \$343.74 in addition to the statutory penalty of \$3,000 for violating Section 21(p)(1) and (p)(7) of the Act.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

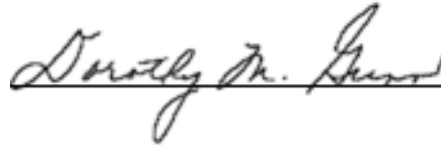
1. The Board finds that Vince Harvey violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act. 415 ILCS 5/21(p)(1) and 21(p)(7) (2002). The Board assesses the statutory penalty of \$3,000, as well as hearing costs of \$347.34, for a total amount due of \$3,347.34. Vince Harvey must pay this amount on or before June 5, 2004, which is the 30th day after the date of this order.
2. Vince Harvey must pay the civil penalty and hearing costs by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Vince Harvey's social security number or federal employer identification number must be included on the certified check or money order.
3. Vince Harvey must send the certified check or money order and the remittance form to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a)(2002)).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

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) (2002); *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 May 6, 2004, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board