

ILLINOIS POLLUTION CONTROL BOARD
November 20, 2003

CITY OF CHICAGO DEPARTMENT OF ENVIRONMENT,)	
)	
Complainant,)	
)	
v.)	AC 04-14
)	(CDOE No. 03-03-AC)
KAZIMIERZ SOBKO,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On September 22, 2003, City of Chicago Department of Environment timely filed an administrative citation against Kazimierz Sobko. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). At issue is the City of Chicago's Department of Environment's allegation that Kazimierz Sobko violated Section 21(p)(1), (p)(4), and (p)(7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1), (p)(4), and (p)(7) (2002). The City of Chicago Department of Environment further alleges that Kazimierz Sobko violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; (2) deposition of waste in standing or flowing waters; and (3) accumulation of clean or general construction or demolition debris. This site is located at 1960 North Long Avenue, Chicago, Cook County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, the City of Chicago Department of Environment served the administrative citation on Kazimierz Sobko within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2002); *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) (2002); 35 Ill. Adm. Code 108.204(b), 108.406. Here, Kazimierz Sobko failed to timely file a petition. Accordingly, the Board finds that Kazimierz Sobko violated Section 21(p) of the Act.

The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500(a). Because there are three violations of Section 21(p)(1), (p)(4), and (p)(7) and these violations are first offenses, the total civil penalty is \$4,500. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

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

ORDER

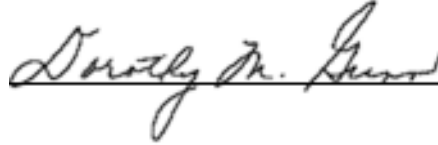
1. Kazimierz Sobko must pay a civil penalty of \$4,500 no later than December 22, 2003, which is the first business day following the 30th day after the date of this order.
2. Kazimierz Sobko must pay the civil penalty by certified check or money order, made payable to the City of Chicago. The case number, case name, and Kazimierz Sobko's social security number or federal employer identification number must be included on the certified check or money order.
3. Kazimierz Sobko must send the certified check or money order and the remittance form to:

City of Chicago Department of Environment
Permitting and Enforcement Division
30 North LaSalle Street
Suite 2500
Chicago, Illinois 60602
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 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) (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 November 20, 2003, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board