

ILLINOIS POLLUTION CONTROL BOARD
December 2, 2004

CITY OF CHICAGO DEPARTMENT OF ENVIRONMENT,)	
)	
Complainant,)	
)	
v.)	AC 04-13
)	(CDOE No. 03-02-AC)
EDDIE GREER,)	(Administrative Citation)
)	
Respondent.)	

CHARLES A. KING OF THE OFFICE OF THE CORPORATION COUNSEL APPEARED ON BEHALF OF THE CITY OF CHICAGO; and

EDDIE GREER APPEARED *PRO SE*.

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

Having received documentation of hearing costs in this administrative citation enforcement action, the Board today issues its final opinion and order. On September 16, 2004, the Board issued an interim opinion and order, finding that respondent Eddie Greer (Greer) violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(7) (2002)) at 609 West 59th Street, Chicago, Cook County. The Board held that Greer violated the Act by causing or allowing the open dumping of waste resulting in litter and in the deposition of general or clean construction or demolition debris. The violation was alleged in an administrative citation issued by the City of Chicago (City).

In its September 16, 2004 decision, the Board held that under Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2002)), Greer had committed two first-time violations of Section 21, and is subject to the statutorily fixed civil penalty of \$3,000. In addition, the Board held that Greer, by unsuccessfully contesting the administrative citation at hearing, must pay the hearing costs of the City and the Board. The hearing in this case was held on April 5, 2004, at the James R. Thompson Center, 100 West Randolph Street, Room 11-512 in Chicago.

Because no information on hearing costs was in the record, the Board directed the City and the Clerk of the Board each to file documentation of the respective hearing costs, supported by affidavit, and to serve the filing on Greer. The Board also gave Greer an opportunity to respond to the requests for hearing costs and noted that after the time periods for these filings had run, the Board would issue a final opinion and order assessing the civil penalty and any appropriate hearing costs.

On September 22, 2004, the Clerk of the Board submitted an affidavit of the Board's hearing costs totaling \$374.40, the entirety of which reflects the costs of court reporting. The

Clerk served this documentation on Greer. On October 1, 2004, the City filed correspondence stating no hearing costs. This correspondence was served on Greer, who did not respond to either the City's correspondence or the Clerk's affidavit.

The Board finds the hearing costs of the Board reasonable and below orders Greer to pay those costs under Section 42(b)(4-5) of the Act. The Board incorporates by reference the findings of fact and conclusions of law from its September 16, 2004 interim opinion and order. Under Section 31.1(d)(2) of the Act (415 ILCS 5/31.1(d)(2) (2002)), the Board attaches the administrative citation and makes it part of the Board's final order.

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

ORDER

1. The Board finds that Eddie Greer (Greer) violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1) and 21(p)(7) (2002).
2. The Board assesses the statutory civil penalty of \$3,000 for the violations, as well as hearing costs totaling \$374.40, for a total amount due of \$3,374.40. Greer must pay \$3,374.40 no later than January 17, 2005, which is the first business day following the 45th day after the date of this order. Greer must pay this amount by certified check or money order, made payable to the City of Chicago. The case number, case name, and Greer's social security number or federal employer identification number must be included on the certified check or money order.
3. Greer must send the certified check or money order to:

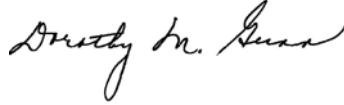
City of Chicago Department of Environment
Permitting and Enforcement Division
30 North LaSalle Street
Suite 2500
Chicago, Illinois 60602
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) 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 December 2, 2004, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board