

ILLINOIS POLLUTION CONTROL BOARD
May 5, 1994

MONTGOMERY COUNTY,)
)
 Complainant,)
)
 v.) AC 94-14
) (Administrative Citation)
 JOHN O'BRIEN,)
)
 Respondent.)

ORDER OF THE BOARD:

This matter comes before the Board upon a March 21, 1994 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by Montgomery County. A copy of that Administrative Citation is attached hereto, but will not be printed in the Board's Opinion Volumes. Service of the Administrative Citation was made upon John O'Brien on March 16, 1994. Montgomery County alleges that on February 14, 1994, John O'Brien, present owner and/or operator of a facility located in Montgomery County and commonly known to the County as 2005 Klar Avenue, violated Section 21(p)(1) of the Act. The statutory penalty established for this violation is \$500.00 pursuant to Section 42(b)(4) of the Act.

John O'Brien has not filed a Petition for Review with the Clerk of the Board within 35 days of the date of service as allowed by Section 31.1(d)(2) of the Act. Therefore, pursuant to Section 31.1(d)(1), the Board finds that John O'Brien, has violated the provision 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 John O'Brien shall, by certified check or money order payable to the Montgomery County Treasurer, pay a penalty in the amount of \$500.00, which is to be sent to:

Tom Larson, Director
Montgomery County Department of Public Health
South Route 185
Hillsboro, Illinois 62049

2. Respondent shall include the remittance form and write the case name and number and their social security or federal Employer Identification Number on the certified check or money order.
3. Penalties unpaid after the due date shall accrue interest

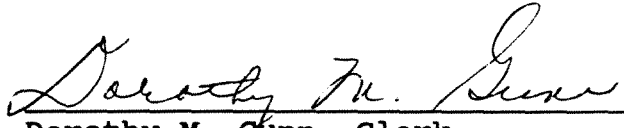
pursuant to Section 42(g) of the Illinois Environmental Protection Act.

4. Payment of this penalty does not prevent future prosecution if the violation continues.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 5th day of May, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

MONTGOMERY COUNTY,)
ILLINOIS,)
Complainant,)
vs.)
JOHN O'BRIEN,)
Respondent.)

AC 94-14
NO.

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by Illinois Compiled Statutes, Chapter 415, Paragraph 5/31-1 and delegated to Montgomery County, Illinois, pursuant to Illinois Compiled Statutes, Chapter 415, Paragraph 514.

FACTS

- 1. The Respondent is the present operator of an open dump located in Montgomery County, State of Illinois in the Village of Schram City, commonly referred to as 2005 Klar Avenue, and referred to herein as Site No. 1350600001.
2. That said facility is not a sanitary run special waste landfill, and that no permits have been issued to John O'Brien, record owner of the property, for said purpose.
3. That Respondent has owned and/or operated said facility at all times pertinent hereto.
4. That on February 14, 1994, Weldon Kunzeman of the Montgomery County Health Department inspected the above-described facility. A copy of the Inspection Report setting forth the results of such inspection is attached hereto and made a part hereof.

VIOLATIONS

- 1. On the basis of direct observation of Weldon Kunzeman, on February 14, 1994, the Complainant has determined that respondent has operated the above-described facility in the following manner:

a. That John O'Brien has allowed the open dumping of waste in a manner resulting in litter, more particularly described on Page 3 of the attached Inspection Report, incorporated herein by reference.

2. That the action described in Paragraph 1a, above constitutes a violation of Illinois Compiled Statutes, Chapter 415, Paragraph 5/21 (p) (1).

CIVIL PENALTY

Pursuant to Illinois Compiled Statutes, 1991, Chapter 415, Paragraph 5/42 (b) (4), Respondent herein is subject to civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraph 1a (Violations), for a total of \$500.00. Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described hereinbelow, and if there is a finding of the violations alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency, Montgomery County, Illinois, and the Illinois Pollution Control Board, in addition to the Five Hundred Dollars (\$500.00) statutory penalty for each finding of violation.

If you acknowledge the violations cited hereinabove, the civil penalty specified above shall be due and payable no later than April 22, 1994. 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 Montgomery County Treasurer and mailed to the attention of Mr. Tom Larson, Director, Montgomery County Health Department, South Route 185, Hillsboro, Illinois 62049. Also, please complete and return the enclosed Remittance Form, along with your payment, to assure proper documentation of payment, 50% of which payment must be forwarded to the Agency.

If any civil penalty, by reason of acknowledgment, 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 Office of the Illinois Attorney General or State's Attorney for Montgomery County, Illinois shall be requested to initiate proceedings in Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty, interest, and hearing costs of the Illinois Environmental Protection Agency, Montgomery County, Illinois, and the Illinois Pollution Control Board, if any, the Attorney General's Office or Montgomery County, Illinois State's Attorney's Office will seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING THIS

ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation. See Illinois Compiled Statutes, 1991, Chapter 415, Paragraph 5/31.1. If you elect to contest this Administrative Citation, you must file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review should be mailed to the Montgomery County State's Attorney. 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 may 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; and a courtesy copy of said Petition for Review filed with the Illinois Environmental Protection Agency at 2200 Churchill Road, P.O. Box 19276, Springfield, Illinois 62794-9276.

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ILLINOIS

MONTGOMERY COUNTY,
ILLINOIS,

Complainant,

vs.

JOHN O'BRIEN,

Respondent.

NO.

ac 94-17

REMITTANCE FORM

FACILITY: Schram City/O'Brien Open Dump

SITE CODE NO. 1350600001

COUNTY: Montgomery

CIVIL PENALTY: \$500.00

DATE OF INSPECTION: February 14, 1994

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE _____

NOTE

Please enter the date of your remittance, your Social Security Number (SS) if any individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Mr. Tom Larson, Director, Montgomery County Health Department, South Route 185, Hillsboro, Illinois 62049. The check should be made payable to the Montgomery County Treasurer. Fifty per cent (50%) of the penalty shall be forwarded by Montgomery County to the Illinois Environmental Protection Agency.

Attention: Division of Legal Counsel, and a copy of said Petition for review mailed to
Kathryn Dobrinic, Montgomery County State's Attorney, Montgomery County Courthouse,
Hillsboro, Illinois 62049.

MONTGOMERY COUNTY, ILLINOIS

BY:



KATHRYN DOBRINIC
Montgomery County State's Attorney

Prepared by: Kathryn Dobrinic
Montgomery County State's Attorney
Montgomery County Courthouse
Hillsboro, Illinois 62049