

ILLINOIS POLLUTION CONTROL BOARD
August 24, 1995

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 94-96
) AC 94-97
) (Administrative Citations)
M.K. O'HARA CONSTRUCTION,)
INC., KENNETH O'HARA AND)
MADALYN O'HARA,)
)
Respondents.)

MS. MELANIE JARVIS, ASSISTANT COUNSEL, APPEARED ON BEHALF OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY.

MR. KENNETH O'HARA AND MRS. MADALYN O'HARA APPEARED PRO SE.

OPINION AND ORDER OF THE BOARD (R.C. Flemal):

On April 6, 1995, the Board issued an interim opinion and order in this matter, finding that respondents M.K. O'Hara Construction, Inc., Kenneth O'Hara and Madalyn O'Hara violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1)(1994)) on October 24, 1994 at the Beardstown/O'Hara Sites #3 and #4. Having found two violations of the Act, the Board must assess the appropriate penalty for the violations.

Penalties in administrative citation actions are prescribed by Section 42(b)(4) of the Act which states:

In an administrative citation action under Section 31.1 of this Act, any person found to have violated any provision of subsection (o) or (p) of Section 21 of this Act shall pay a civil penalty of \$500 for each violation of each such provision, plus any hearing costs incurred by the Board and the [Illinois Environmental Protection] Agency. Such penalties shall be made payable to the Environmental Protection Trust Fund to be used in accordance with the provisions of the Environmental Protection Trust Fund Act except if a unit of local government issued the administrative citation, 50% of the civil penalty shall be payable to the unit of local government.

(415 ILCS 5/42(b)(4) (1994).)

Since the Board found two such violations, the penalty to be

imposed against respondents is \$1000.00 plus hearing costs.

The interim opinion and order requested affidavits from the Illinois Environmental Protection Agency (Agency) and the Clerk of the Board to determine hearing costs. On April 17, 1995 the Agency filed an affidavit stating that its hearing costs were twenty one dollars (\$21.00). On April 24, 1995 the Clerk of the Board filed an affidavit stating that the Board's hearing costs were three hundred seventy five dollars and fifty cents (\$375.50). Respondents have not filed an objection to the affidavit of costs filed by the Agency or the Board. Therefore, the total hearing cost to be assessed against respondents is three hundred ninety six dollars and fifty cents (\$396.50).

This opinion constitutes the Board's findings of facts and conclusions of law in this matter.

ORDER

1. Respondents M.K. O'Hara Construction, Inc., Kenneth O'Hara and Madalyn O'Hara are hereby found to have violated 415 ILCS 5/21(p)(1) at the Beardstown/O'Hara Sites #3 and #4 on October 24, 1994.
2. Within 45 days of this order respondents shall, by certified check or money order payable to the Illinois Environmental Protection Trust Fund, pay a civil penalty in the amount of one thousand dollars (\$1000.00) which is to be sent by First Class mail to:

Fiscal Services
 Illinois Environmental Protection Agency
 2200 Churchill Road, P.O. Box 19276
 Springfield, IL 62794-9276

Respondents shall also include the remittance form with the payment.

3. Within 45 days of this order respondents shall, by certified check or money order payable to the General Revenue Fund, pay hearing costs in the amount of twenty one dollars (\$21.00) which is to be sent by First Class mail to:

Fiscal Services
 Illinois Environmental Protection Agency
 2200 Churchill Road, P.O. Box 19276
 Springfield, IL 62794-9276

4. It is hereby ordered that within 45 days of the date of this order, respondents shall, by certified check or money order payable to the State of Illinois, designated for

deposit to the General Revenue Fund, pay as compensation for hearing costs incurred by the Board, the amount of three hundred seventy five dollars and fifty cents (\$375.50) which is to be sent by First Class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276

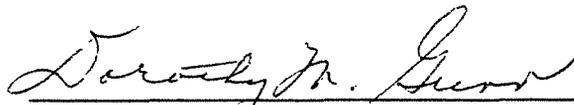
5. Respondents shall write the case name and numbers and social security or federal Employer Identification Number on each certified check or money order.
6. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
7. These dockets are hereby closed.

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1994)), provides for appeal of final orders of the Board 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, Motion for Reconsideration.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 24th day of August, 1995, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board