

ILLINOIS POLLUTION CONTROL BOARD
January 9, 1992

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 89-224 (Dockets A & B)
) (Administrative Citation)
JOHN VANDER,) (IEPA No. 9951-AC)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by M. Nardulli):

This matter is before the Board on remand by the Illinois Appellate Court. In its October 2, 1991 decision, the appellate court reversed the Board's finding that respondent's conduct did not constitute open dumping such that respondent did not violate Sections 21(q)(1) and (3) of the Environmental Protection Act (Act). (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1021(q)(1) and (3).) The appellate court's mandate issued on November 25, 1991.

Consistent with the appellate court's decision reversing and remanding this matter to the Board, the Board hereby finds that the Illinois Environmental Protection Agency established that respondent violated Section 21(q)(1) of the Act in that respondent caused or allowed open dumping resulting in litter and Section 21(q)(3) of the Act in that respondent caused or allowed open dumping resulting in open burning.¹ Pursuant to Section 42(b)(4) of the Act, the Board hereby imposes a \$1,000 penalty on respondent.

DOCKET B

Pursuant to Section 42(b) of the Act, any person found to have violated Section 21(q) of the Act is required to pay hearing costs incurred by the Board and the Agency. The Clerk of the Board and the Agency are ordered to file a statement of costs, supported by affidavit, with the Board and with service upon respondent. Upon receipt and subsequent review, the Board will issue a separate final order addressing the issue of costs.

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

ORDER

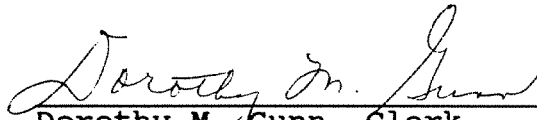
¹ Respondent did not allege that these violations resulted from uncontrollable circumstances. (See; Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1031.1(d)(2).)

1. The Board finds that respondent John Vander has violated Section 21(q)(1) and 21(q)(3) of the Act as alleged in the complaint and, therefore, respondent shall pay a statutory penalty of \$1,000.
2. Within 45 days of the date of this Order of January 9, 1992, respondent shall, by certified check or money order, pay a civil penalty of \$1,000 payable to the Illinois Environmental Trust Fund at the following address:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
Springfield, IL 62706
3. Docket A is closed.
4. Within 30 days of the date of this Order, the Clerk of the Board and the Agency shall file a statement of costs, supported by affidavit, and with service upon respondent. Such filing shall be entered in Docket B.
5. Respondent is given leave to file a reply/objection to the filings ordered in paragraph 4 within 45 days of the date of this Order of January 9, 1992.

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 9th day of January, 1992 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board