

ILLINOIS POLLUTION CONTROL BOARD  
August 24, 1995

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) AC 94-73  
 ) (IEPA No. 415-94-AC)  
 ) (Administrative Citation)  
STACY B. HESS, )  
 )  
 )  
Respondent. )

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

STACY B. HESS APPEARED PRO SE.

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

On March 16, 1995, the Board issued an interim opinion and order in this matter, finding that respondent Stacy B. Hess violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1)(1994)) on June 20, 1994 at the Washington/Hess Property. Having found a violation of the Act, the Board must assess the appropriate penalty for the violation.

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 such a violation, the penalty to be imposed against respondent is \$500.00 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 3, 1995

the Agency filed an affidavit stating that its hearing costs were forty two dollars (\$42.00). On March 29, 1995 the Clerk of the Board filed an affidavit stating that the Board's hearing costs were two hundred ninety two dollars and thirty cents (\$292.30). Respondent has 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 respondent is three hundred thirty four dollars and thirty cents (\$334.30).

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

ORDER

1. Respondent Stacy B. Hess is hereby found to have violated 415 ILCS 5/21(p)(1) at the Washington/Hess Property on June 20, 1994.
2. Within 45 days of this order respondent shall, by certified check or money order payable to the Illinois Environmental Protection Trust Fund, pay a civil penalty in the amount of five hundred dollars (\$500.00) 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

Respondent shall also include the remittance form with the payment.

3. Within 45 days of this order respondent shall, by certified check or money order payable to the General Revenue Fund, pay hearing costs in the amount of forty two dollars (\$42.00) 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, respondent 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 two hundred ninety two dollars and thirty cents (\$292.30) 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

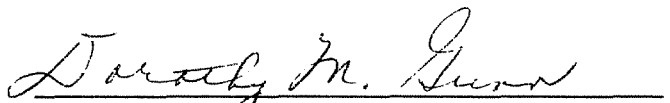
5. Respondent shall write the case name and number and social security or federal Employer Identification Number on each certified check or money order.
6. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
7. This docket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

IT IS SO ORDERED.

Board Member Joseph Yi dissented and 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 27<sup>th</sup> day of August, 1995, by a vote of 6-1.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board