

ILLINOIS POLLUTION CONTROL BOARD  
December 1, 1994

SANGAMON COUNTY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 94-36
	)	(SCDPH 94-AC-12)
	)	(Administrative Citation)
EDWARDS COMBS,	)	
an Iowa Corporation,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by C. A. Manning):

This matter was originally before the Board on a June 10, 1994 filing of an administrative citation pursuant to Section 31.1 of the Environmental Protection Act (Act) by Sangamon County (County). (415 ILCS 5/31.1 (1992).) The County alleged that on May 20, 1994 Edward Combs, present owner/operator of a facility located in Sangamon County and commonly known to the County as Loami/Combs, violated Sections 21(p)(1) and 21(p)(3) of the Act. (415 ILCS 5/21(p)(1) and (3) (1992).) The statutory penalty established for each violation is \$500.00 pursuant to Section 42(b)(4) of the Act. (415 ILCS 5/21(p)(1) and (3) (1992).)

On August 11, 1994 the Board entered a default order against Edward Combs pursuant to Section 31.1(d) of the Act. (415 ILCS 5/31.1(d) (1992).) Section 31.1(d) of the Act directs the Board to enter a order finding violation against a respondent if the respondent fails to file with the Clerk of the Board a petition for review within 35 days of service of the administrative citation. The August 11, 1994 order of the Board found Edward Combs in violation Sections 21(p)(1) and 21(p)(3) of the Act and ordered respondent to pay a penalty of \$1,000.00.

On November 16, 1994 the County filed a "Stipulated Agreement" with the Clerk of the Board. The Stipulated Agreement does not discuss the Board order of August 11, 1994. Instead, the Stipulated Agreement sets forth the following conditions to the agreement:

1. The Respondent, Edward Combs, will admit the following violations:
  - a. causing or allowing open burning
2. The Complainant, County of Sangamon, agrees to dismiss the allegation concerning causing or allowing litter.

3. The Respondent will remit a penalty of five hundred dollars (\$500.00) to the Sangamon County Department of Public Health by December 16, 1994.

The Clerk serves the parties with the Board's orders via certified mail, return receipt requested. The Clerk's files do not contain return receipt cards indicating that the August 11 order was in fact received prior to their execution of the stipulation.<sup>1</sup> Since the Board has no reason to believe that the parties received the August 11, 1994 default order, we will vacate that order and replace it with this order that reflects the parties' agreement.


1. Respondent is hereby found to have violated Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (1992)) and the alleged violation of Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (1992)) is dismissed.
2. It is hereby ordered that, unless the penalty has already been paid, the Respondent shall, by certified check or money order payable to the Sangamon County Department of Health, pay a penalty in the amount of \$500.00 by December 16, 1994. Such payment should be sent to:

James D. Stone, Director  
Sangamon County Department of Public Health  
200 South Ninth Street, Room 301  
Springfield, Illinois 62701

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.

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 1<sup>st</sup> day of December, 1994, by a vote of 7-0.

  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

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<sup>1</sup> The Clerk again initiated service on November 9.