

ILLINOIS POLLUTION CONTROL BOARD
March 20, 2008

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 07-54
)	(IEPA No. 113-07-AC)
ADOLPH M. LO,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

Today the Board accepts a proposed settlement and dismissal of this administrative citation enforcement action. By way of background, complainant, the Illinois Environmental Protection Agency (Agency), timely filed an administrative citation on April 24, 2007, against respondent Adolph M. Lo (respondent). The Agency alleged that respondent violated Sections 21(p)(1), (p)(3) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2006)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and deposition of general construction or demolition debris or clean construction or demolition debris. The violations allegedly took place on March 21, 2007, at respondent's facility located at 2000 North Staley Road, in Seymour, Champaign County. The site is commonly known to the Agency as "Champaign/Lo Farms-Staley & Cardinal Road" and has been designated with Site Code No. 0198025007.

Respondent timely filed a petition to contest the administrative citation, which the Board accepted on June 7, 2007. On March 10, 2008, the parties filed a "stipulation of settlement and dismissal of respondent's petition for administrative review." Under its terms, respondent admits he violated Section 21(p)(1) of the Act by causing or allowing the open dumping of waste resulting in litter, and agrees to pay the statutory civil penalty of \$1,500 for this violation. Stipulation at 2. Respondent also agrees to the dismissal of his petition contesting the administrative citation. *Id.* at 3. The stipulation further states that the waste that was the subject of the administrative citation has been removed and properly disposed. *Id.* In addition, the Agency agrees not to refer the violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a civil enforcement action. *Id.*

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2006)), the Board therefore finds that respondent violated Section 21(p)(1) of the Act. Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2006)) establishes a civil penalty of \$1,500 for this violation. The Board accordingly assesses a civil penalty of \$1,500. To effectuate the parties' intent that respondent pay a total civil penalty of \$1,500, the

Board dismisses the alleged violation of Sections 21(p)(3) and (p)(7) of the Act (415 ILCS 5/21(p) (p)(3), (p)(7) (2006)).

This opinion constitutes the Board's finding of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2006)) by causing or allowing the open dumping of waste resulting in litter.
3. Respondent must pay a total civil penalty of \$1,500 by April 21, 2008, which is the first business day following the 30th day after the date of this order. Payment must be made by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondent's federal employer identification number or social security number must be included on the certified check or money order.
4. Respondent must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
6. The Board dismisses the alleged violation of Section 21(p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(3), (p)(7) (2006)) and respondent's petition to contest the administrative citation.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2006); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final

orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 20, 2008, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board