

ILLINOIS POLLUTION CONTROL BOARD

March 3, 2011

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
)	
Complainant,)	
)	
v.)	AC 10-23
)	(IEPA No.132-10-AC)
JOHN J. and KATHY D. STILL,)	(Administrative Citation)
)	
Respondents.)	

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

For the reasons below, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action. The Illinois Environmental Protection Agency (Agency) timely filed an administrative citation on April 30, 2010, against John J. and Kathy D. Still (the Stills).¹ The Agency alleged that on March 18, 2010, the Stills violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(7) (2008)) by causing or allowing the open dumping of waste in a manner resulting in litter and the deposition of general or clean construction or demolition debris. The violations allegedly took place at the Stills' facility located at SE 1/4 of the SW 1/4 of SEC 23, T1S, R3W, 4th Prime Meridian, Brown County. The property is commonly known to the Agency as the "Mt. Sterling/Still" site and is designated with Site Code No. 0098050005.

The Stills timely filed a petition to contest the administrative citation, which the Board accepted on June 17, 2010. On February 15, 2011, the parties filed a "stipulation of settlement and dismissal of respondent's petition for administrative review." Under its terms, the Stills admit that they violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2008)) by causing or allowing open dumping resulting in litter, and agree to pay the statutory civil penalty of \$1,500 for this violation. Stipulation at 2. The Stills also agree to the dismissal of their 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.* at 2. 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.* at 3.

¹ Other than the proposed settlement, documents in this record refer to "John H. Still," rather than "John J. Still." However, as the proposed settlement refers to and is signed by John J. Still, the caption of this order reflects "John J. Still" and the Board treats the earlier references to "John H. Still" as mere scrivener's error.

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2008)), the Board therefore finds that the Stills violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2008)). Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2008)) 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 the Stills pay a total civil penalty of \$1,500, the Board dismisses the alleged violation of Section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2008)).

This opinion constitutes the Board's findings 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 the Stills violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2008)).
3. The Stills must pay a civil penalty of \$1,500 no later than April 4, 2011, which is the first business day following the 30th day after the date of this order. The Stills must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and the Stills' respective social security numbers must be included on the certified check or money order.
4. The Stills 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 Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
6. The Board dismisses the alleged violation of Section 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(7) (2008)) and the Stills' 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) (2008); *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 3, 2011, by a vote of 5-0.

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

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board