

ILLINOIS POLLUTION CONTROL BOARD
December 6, 2001

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 01-43
) (IEPA No. 177-01-AC)
CITY OF ELDORADO,) (Administrative Citation)
)
Respondent.)

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

On May 14, 2001, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against the City of Eldorado (Eldorado). The Agency alleges that Eldorado violated Section 21(p)(1), (p)(3), (p)(4), and (p)(7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1),(p)(3),(p)(4),(p)(7) (2000). On June 14, 2001, Eldorado filed a petition for review contesting the administrative citation. Eldorado's facility is located in Eldorado, Saline County. On November 8, 2001, the Agency filed a stipulation of settlement and dismissal of respondent's petition for review.

Pursuant to the terms of the stipulation and proposal for settlement, Eldorado admits that it caused or allowed open dumping resulting in open burning. *See* 415 ILCS 5/21(p)(3) (2000). Eldorado does not admit the remaining allegations contained in the administrative citation.

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

ORDER

1. Pursuant to the stipulated agreement, the Board finds that the City of Eldorado violated Section 21(p)(3) of the Act. 415 ILCS 5/21(p)(3) (2000). The Board dismisses the alleged violations of Section 21(p)(1), (p)(4), and (p)(7) of the Act. 415 ILCS 5/21(p)(1), (p)(4), (p)(7) (2000). The City of Eldorado must pay a civil penalty of \$3,000 pursuant to 415 ILCS 5/42(b)(4-5) (2000).
2. The City of Eldorado must pay the civil penalty on or before December 21, 2001, by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and the City of Eldorado's federal employer identification number must be included on the certified check or money order.
3. The City of Eldorado must send the certified check or money order and the remittance form to:

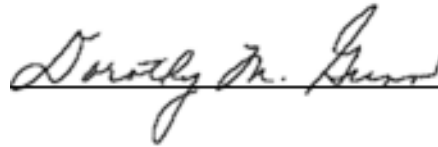
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. The City of Eldorado must diligently comply with, and cease and desist, from further violations of the Act (415 ILCS 5/1 et seq. (2000)) and the Board's rules and regulations. 35 Ill. Adm. Code Subtitles A through H.
6. The City of Eldorado must remove and properly dispose of the waste located at the site that was the subject of this administrative citation.
7. The Illinois Environmental Protection Agency may not refer the violations that are the subject of this administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority for the initiation of a criminal or civil enforcement action.

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) (2000); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 6, 2001, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board