

ILLINOIS POLLUTION CONTROL BOARD
February 7, 2002

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 02-3
) (IEPA No. 290-01-AC)
MARVIN HAMMACK and DORIS BAKER,) (Administrative Citation)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On July 20, 2001, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Marvin Hammack and Doris Baker (respondents). The Agency alleges that the respondents violated Section 21(p)(1) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1) (2000). The Agency further alleges that the respondents violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter.

On August 10, 2001, the respondents filed a petition for review contesting the administrative citation. The respondents' facility is located in Rushville, Schuyler County. On January 28, 2002, the Agency filed a stipulation of settlement and dismissal of respondents' petition for review. Pursuant to the terms of the stipulation and proposal for settlement, the respondents admit that they caused or allowed open dumping resulting in litter. *See* 415 ILCS 5/21(p)(1) (2000).

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

ORDER

1. Pursuant to the stipulated agreement, the Board finds that Marvin Hammack and Doris Baker (respondents) violated Section 21(p)(1) of the Act. 415 ILCS 5/21(p)(1) (2000). The respondents must pay a civil penalty of \$1,500 pursuant to 415 ILCS 5/42(b)(4-5) (2000).
2. The respondents must pay the \$1,500 statutory civil penalty in monthly installments of \$100, the first payment being due on January 31, 2002, with subsequent payments of \$100 due on the last day of each successive month until the penalty is paid in full. Each payment must be made by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and the respondents' social security numbers must be included on the certified check or money order.

3. The respondents must send the certified check or money order and the remittance form to:

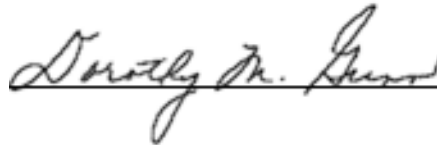
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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 respondents 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 respondents 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.
8. The respondent's petition for review filed on August 10, 2001, is dismissed.

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 February 7, 2002, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board