

ILLINOIS POLLUTION CONTROL BOARD

May 16, 2002

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 01-44
)	(IEPA No. 174-01-AC)
CHARLES HALEY d/b/a HALEY)	(Administrative Citation)
BROTHERS CONSTRUCTION,)	
)	
Respondent.)	

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

On May 25, 2001, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Charles Haley d/b/a Haley Brothers Construction (Haley). See 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Haley violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3) (2000)). The Agency further alleges that Haley violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter and open burning at a facility located at the northwest corner of county roads 3000N and 100E in Milks Grove Township, Iroquois County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, the Agency served the administrative citation on Haley within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2000); see also 35 Ill. Adm. Code 108.202(b). On July 30, 2001, Haley timely filed a petition for review. The Board accepted the petition for hearing on August 9, 2001.

On May 1, 2002, the parties filed a stipulation and proposal for settlement. Pursuant to the terms of the proposed settlement, Haley neither admits nor denies the alleged violation of Section 21(p)(3) of the Act, but agrees to pay a civil penalty of \$1,500. The Board accepts the stipulation and proposed settlement. To effectuate the parties’ intent that Haley pay a total penalty of only \$1,500, the alleged violation of Section 21(p)(1) of the Act is dismissed.

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.

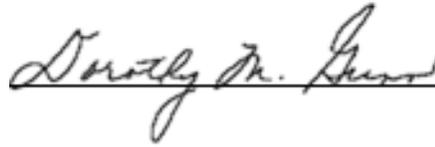
2. Pursuant to the stipulated agreement, the alleged violation of Section 21(p)(1) of the Act is dismissed. The Board finds that Charles Haley d/b/a Haley Brothers Construction (Haley) violated Section 21(p)(3) of the Act, and must pay a civil penalty of \$1,500 no later than June 16, 2002, which is the 30th day after the date of this order.
3. Haley must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The number, case name, and Haley's social security number or federal employer identification number must be included on the certified check or money order.
4. Haley 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
5. 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)).
6. Payment of this penalty does not prevent future prosecution if the violation continues.

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 May 2, 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