

ILLINOIS POLLUTION CONTROL BOARD
June 20, 2002

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 01-39
)	(IEPA No. 175-01-AC)
IVAN R. SMITH,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On April 26, 2001, the Illinois Environmental Protection Agency (Agency) filed an administrative citation against Ivan R. Smith and Lois Smith (Smiths). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Agency alleged that the Smiths violated Sections 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)). The Agency further alleged that the Smiths violated these provisions by causing or allowing the open dumping of waste in a manner resulting in the following: litter; open burning; the deposition of waste in standing or flowing waters; and the deposition of construction or demolition debris. The administrative citation concerns the Smiths' facility on Smith Downs Lane, approximately one mile north of Hatfield Road, in Schuyler County. The Smiths filed a petition for review of the administrative citation on May 30, 2001, which the Board accepted for hearing in a June 7, 2001 order.

On June 13, 2002, the parties filed a stipulation and proposed settlement. The Agency agrees to the dismissal of the alleged violations of Sections 21(p)(3), (p)(4), and (p)(7) of the Act. The Agency also agrees to the dismissal of Lois Smith, who died during the pendency of this action. Ivan R. Smith agrees to the dismissal of the petition for review and admits to violating Section 21(p)(1) of the Act by causing or allowing open dumping resulting in litter. He further agrees to pay a civil penalty of \$1,500 for the violation, pursuant to Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2000)). The Board accepts the stipulation and proposed settlement.

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.

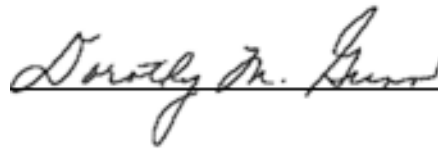
2. The Board dismisses the alleged violations of Sections 21(p)(3), (p)(4), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(3), (p)(4), (p)(7) (2000)). The Board dismisses Lois Smith and accordingly amends this case's caption. The Board dismisses the petition for review.
3. The Board finds that Ivan R. Smith violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2000)). Ivan R. Smith must pay a civil penalty of \$1,500 no later than June 30, 2002. He must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Ivan R. Smith's social security number or federal employer identification number must be included on the certified check or money order.
4. Ivan R. Smith 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) (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 June 20, 2002, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board