

ILLINOIS POLLUTION CONTROL BOARD
October 3, 2002

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 02-40
)	(IEPA No. 52-02-AC)
ROBERT and JOHN GRAY d/b/a GRAY'S)	(Administrative Citation)
MATERIAL SERVICE,)	
)	
Respondents.)	

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

On February 13, 2002, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Robert and John Gray d/b/a Gray's Material Service (Grays). The Agency alleges that the Grays violated Section 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1),(p)(3),(p)(7) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002. On March 18, 2002, the Grays filed a petition for review contesting the administrative citation. The Grays' facility is located at 834 East Second Street, Gilman, Iroquois County. On September 27, 2002, the Agency filed the parties' stipulation of settlement and dismissal of respondent's petition for review.

Pursuant to the terms of the stipulation and proposal for settlement, the Grays agree to pay a penalty of \$3,000 for the alleged violation of Sections 21(p)(1) and (3) (415 ILCS 5/21(p)(1),(3) (2000)) *amended by* P.A. 92-0574, eff. June 26, 2002, but do not admit liability for the violations alleged in the administrative citation. In order to effectuate the parties' intent that the Grays pay a total civil penalty of \$3,000, the Board dismisses the alleged violation of Section 21(p)(7). The parties agree that the waste that was the subject of this administrative citation has been removed and properly disposed of.

The Board accepts the stipulation and proposal for settlement. Pursuant to Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2000)) *amended by* P.A. 92-0574, eff. June 26, 2002, the Board finds that the Grays have violated Section 21(p)(1) and (3). 415 ILCS 5/21(p)(1),(3) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002 Under Section 42(b)(4-5), the statutory penalty established for each violation is \$1,500 for a total of \$3,000. 415 ILCS 5/42(b)(4-5) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002. The Board accordingly assesses a civil penalty of \$3,000.

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

ORDER

Pursuant to the stipulated agreement, the Board finds that the Grays violated Section 21(p)(1) and (3) of the Act. 415 ILCS 5/21(p)(1),(3) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002

1. The Grays must pay a civil penalty of \$3,000 pursuant to 415 ILCS 5/42(b)(4-5) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002. The Grays are jointly and severally liable for this penalty.
2. The Grays must pay the civil penalty on or before October 31, 2002, by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and the Gray's federal employer identification number must be included on the certified check or money order.
3. The Grays must send the certified check or money order and the remittance form to:

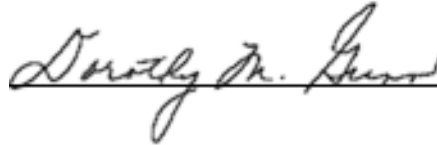
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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)) *amended by* P.A. 92-0574, eff. June 26, 2002 at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. The Board dismisses the alleged violation of Section 21(p)(7) of the Act. 415 ILCS 5/21(p)(7) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002.
6. The Grays' petition for review filed on March 18, 2002, is dismissed.
7. The Grays must diligently comply with, and cease and desist from further violations of, the Act (415 ILCS 5/1 et seq. (2000)) *amended by* P.A. 92-0574, eff. June 26, 2002, and the Board's rules and regulations. 35 Ill. Adm. Code Subtitles A through H.
8. The Agency will 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 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) *amended by* P.A. 92-0574, eff. June 26, 2002; *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 October 3, 2002, 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