

ILLINOIS POLLUTION CONTROL BOARD
December 19, 2002

OGLE COUNTY,)
)
 Complainant,)
)
 v.) AC 03-12
) (Ogle County No. 1418135004)
 MERLE and JOANNE CORNELIUS, and) (Administrative Citation)
 DENNIS BORGMANN,)
)
 Respondents.)

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

On November 4, 2002, Ogle County (County) timely filed an administrative citation against Merle and Joanne Cornelius and Dennis Borgmann (respondents). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The County alleges that respondents violated Sections 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). The County further alleges that respondents violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of construction or demolition debris. The complaint concerns respondents' facility at 10217 N. Adeline Road in German Valley, Ogle County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

On December 11, 2002, the parties filed a stipulation and proposal for settlement. Respondents admit to violating Section 21(p)(1) of the Act, and agree to pay a civil penalty of \$1,500. The County agrees to dismiss the alleged violations of Sections 21(p)(3) and (p)(7) of the Act. 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. Pursuant to the stipulated agreement, the Board finds that Merle and Joanne Cornelius and Dennis Borgmann (respondents) violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002). The Board finds that respondents did not violate Sections 21(p)(3) and (p)(7) of the Act (415 ILCS 4/21(p)(3), (p)(7) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002). Accordingly, respondents must pay a civil penalty of \$1,500 no later than March 1, 2003, the date set forth in the stipulated agreement. Respondents

must pay the civil penalty by certified check or money order, payable to the Ogle County's Treasurer Office. The case number, case name, and the respondents' social security numbers or federal employer identification number must be included on the certified check or money order.

3. Respondents must send the certified check or money order to:

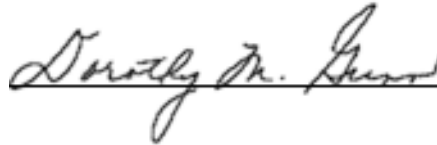
Ogle County Treasurer
Attention: John Coffman
Ogle County Courthouse
Oregon, Illinois 61061

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. Payment of this penalty does not prevent future prosecution if the violations continue.

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 19, 2002, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board