

ILLINOIS POLLUTION CONTROL BOARD
August 21, 2003

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 02-4
)	(IEPA No. 288-01-AC)
MOUND CITY,)	(Administrative Citation)
)	
Respondent.)	

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

On July 24, 2001, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Mound City. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). At issue is the Agency's allegation that Mound City violated Section 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and (p)(3) (2002)) (Act). The Agency further alleges that Mound City violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter and open burning at its facility located south of Route 37 at the west end of Poplar Street in Mound City, Pulaski County.

As required, the Agency served the administrative citation on Mound City within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 108.202(b). On August 23, 2001, Mound City timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Mound City denied the cited violations. *See* 35 Ill. Adm. Code 108.206. The Board accepted the petition for hearing by an order dated September 6, 2001.

On August 13, 2003, the Agency and Mound City filed a stipulation and proposed settlement. *See* 35 Ill. Adm. Code 108.208 and 108.500(c). The Board accepts the stipulation and proposed settlement agreement. Mound City admits the alleged violation of Section 21(p)(1) of the Act. As stated in the stipulation, this is Mound City's second offense of Section 21(p). *See* IEPA v. Mound City, AC 98-24 (May 7, 1998).

The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. *See* 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500(a). Mound City agrees to pay a civil penalty of \$3,000 in four equal monthly installments. To effect the parties' agreement, the Board dismisses from the administrative citation the alleged violation of Section 21(p)(3) of the Act, as well as Mound City's petition for review filed on August 23, 2001.

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

ORDER

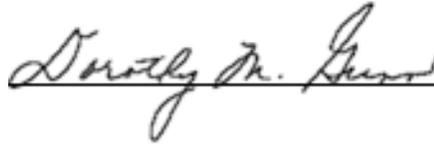
1. The Board accepts and incorporates by reference the stipulation and proposed settlement. The alleged violation of Section 21(p)(3) of the Act is dismissed from the administrative citation, as is Mound City's August 23, 2001 petition for review.
2. Pursuant to the stipulated agreement, the Board finds that Mound City violated Section 21(p)(1) of the Act, and must pay a civil penalty of \$3,000 in four equal monthly installments of \$750 each beginning on September 15, 2003, and continuing on the 15th day of each succeeding month until \$3,000 has been paid in full.
3. Mound City must pay each installment of the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Mound City's federal employer identification number must be included on each certified check or money order.
4. Mound City must send each 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 Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
6. Mound City must diligently comply with and cease and desist from further violation of the Act, 415 ILCS 5 (2002), and Board regulations, 35 Ill. Adm. Code Subtitles A through H.
7. Mound City must remove and properly dispose of waste at the site that was subject of this administrative citation at a rate of at least two 30-cubic yard dumpsters per month until completed, forwarding monthly receipts that indicate the date, amount of waste removed, and the destination of the waste to the Illinois Environmental Protection Agency's Marion Regional Office.
8. The Agency must not refer the violations that are the subject of this administrative citation to the Office of the Attorney General or any other prosecuting authority for initiation of civil or criminal enforcement action if the City of Marion complies with the conditions of paragraph 4 above.

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) (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 August 21, 2003, 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