

ILLINOIS POLLUTION CONTROL BOARD  
September 18, 2003

COUNTY OF VERMILION,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 04-10
	)	(County No. 03-02)
BILL WERNIGK,	)	(Administrative Citation)
	)	
Respondent.	)	

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

On September 8, 2003, County of Vermilion (County) timely filed an administrative citation against Bill Wernigk (Wernigk). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). At issue is the County's allegation that Wernigk violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1) and (p)(7) (2002). The County further alleges that Wernigk violated these provisions by causing or allowing open dumping resulting in litter and in deposition of general and clean construction and demolition debris at 3585 East 3200 North Road, Potomac, Vermilion County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, the County served the administrative citation on Wernigk 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). To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2002); 35 Ill. Adm. Code 108.204(b), 108.406. Here, Wernigk failed to timely file a petition. Accordingly, the Board finds that Wernigk violated Section 21(p)(1) and (p)(7) of the Act.

The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500(a). Because there are two violations of Section 21(p) and these violations are first offenses, the total civil penalty is \$3,000. On September 16, 2003, the County of Vermilion filed a letter with the Board stating that Bill Wernigk had acknowledged the violation cited in the administrative citation and had paid the civil penalty. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

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

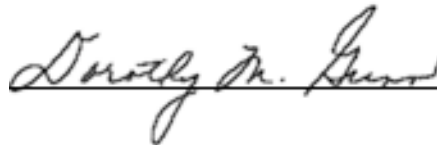
**ORDER**

1. If the civil penalty has not been paid, Bill Wernigk must pay a civil penalty of \$3,000 no later than October 18, 2003, which is the 30th day after the date of this order.
2. Bill Wernigk must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Bill Wernigk's social security number or federal employer identification number must be included on the certified check or money order.
3. Bill Wernigk must send the certified check or money order and the remittance form to:  
  
Vermilion County Health Department  
200 South College Street  
Danville, Illinois 61832
4. 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)).
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) (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 September 18, 2003, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board