

ILLINOIS POLLUTION CONTROL BOARD  
December 4, 1997

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 97-40  
) (Enforcement - Land)  
JAMES R. WOMACK, d/b/a WOMACK )  
BROTHERS EXCAVATING, )  
)  
Respondent. )

OPINION AND ORDER OF THE BOARD (by M. McFawn):

This matter comes before the Board upon a two-count complaint filed on August 26, 1996, by the Attorney General of the State of Illinois, on behalf of the People of the State of Illinois, against James R. Womack, d/b/a Womack Brothers Excavating (respondent), located at 419 Nashville Street, Lenzburg, St. Clair County, Illinois. The complaint alleges that respondent violated Sections 21(a), 21(e), and 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(a), 21(e), 21(p)(1) (1996)), 35 Ill. Adm. Code 807.201, and 807.202(a) by causing or allowing the open dumping of waste, by causing or allowing the unpermitted consolidation of waste, and conducting a waste management operation without a permit.

On July 18, 1997, the parties filed a stipulation, settlement agreement, and a joint motion requesting relief from the hearing requirement of Section 31(c)(2) that proposed stipulation and settlement agreements be presented at hearing. 415 ILCS 5/31(c)(2) (1996). The Board published a notice of the waiver on July 31, 1997. The Board did not receive any objections to the granting of the waiver. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation sets forth facts relating to the nature, operations, and circumstances surrounding the claimed violations. Respondent neither admits or denies the alleged violations, and agrees to pay a total civil penalty of \$7,000.

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

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

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and against James R. Womack, d/b/a Womack Brothers Excavating (respondent), located at 419 Nashville Street, Lenzburg, St. Clair County, Illinois. The stipulation and settlement agreement are incorporated by reference as though fully set forth herein.
2. Respondent shall pay a total sum of \$7,000 in twelve monthly installments. Payment shall be made pursuant to the following schedule:

- a. The first installment of \$583.33 shall be paid within thirty (30) days from the date of this final Board order approving the parties' stipulation and proposal for settlement.
- b. Each following installment shall be in the amount of \$583.33, except for the last which shall be in the amount of \$583.37. Such payments are due on the 15th of the month and shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 N. Grand Avenue East  
Springfield, IL 62702

The certified check or money order shall clearly indicate on its face respondent's social security number or federal employer identification number and that payment is directed to the Environmental Protection Trust Fund. A copy of the payment transmittal and check shall be simultaneously submitted to:

Attorney General's Office  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706

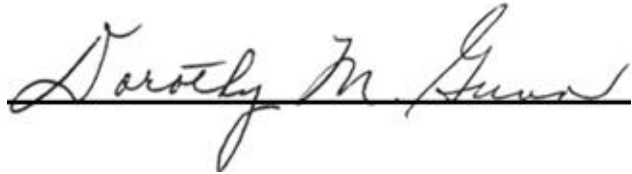
Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

3. Respondent shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 145 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 4th day of December 1997, by a vote of 6-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board