

ILLINOIS POLLUTION CONTROL BOARD  
June 3, 2004

|                        |   |                           |
|------------------------|---|---------------------------|
| ILLINOIS ENVIRONMENTAL | ) |                           |
| PROTECTION AGENCY,     | ) |                           |
|                        | ) |                           |
| Complainant,           | ) |                           |
|                        | ) | AC 04-4                   |
| v.                     | ) | (IEPA No. 390-03-AC)      |
|                        | ) | (Administrative Citation) |
| EDWARD SAPP,           | ) |                           |
|                        | ) |                           |
| Respondent.            | ) |                           |

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On August 5, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Mr. Edward Sapp. The Agency alleges that Mr. Sapp violated Sections 21(p)(1) and (3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (3) (2002)). The Agency further alleges that Mr. Sapp violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter and open burning at 460 100th Avenue, Athens, Hurlbut Township, Logan County.

On September 8, 2003, Mr. Sapp timely filed a petition to contest the administrative citation. The Board accepted the petition for hearing on September 18, 2003.

On May 14, 2004, the parties filed a stipulation of settlement and dismissal of respondent's petition for review. Pursuant to the terms of the stipulation and proposal for settlement, Mr. Sapp admits liability for the violations alleged in the administrative citation, and agrees to pay a penalty of \$3,000 for the violation of Section 21(p)(1), which was a second offense.<sup>1</sup> 415 ILCS 5/21(p)(1) (2002).

To effectuate the parties' intent that Mr. Sapp pay a total civil penalty of \$3,000, the Board dismisses the alleged violation of Section 21(p)(3). The parties agree that a portion of the waste that was the subject of this administrative citation has been removed and properly disposed of. Further, Mr. Sapp no longer has legal access to the property for the purpose of completing the cleanup.

The Board accepts the stipulation and proposal for settlement. Pursuant to Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2002)), the Board finds that Mr. Sapp has violated Section 21(p)(1) of the Act. 415 ILCS 5/21(p)(1) (2002). Under Section 42(b)(4-5), the statutory established penalty is \$1,500 for a first-time violation and \$3,000 for a second or subsequent

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<sup>1</sup> On October 3, 2002, the Board found Edward Sapp in violation of Section 21(p)(1) of the Act in an administrative citation docketed as AC 03-6.

violation of the same provision. 415 ILCS 5/42(b)(4-5) (2002). The Board accordingly assesses a civil penalty of \$3,000. The Board notes that the parties' stipulation and proposal for settlement provides that Mr. Sapp will pay the penalty in eighteen monthly installments of \$167 commencing on June 1, 2004. As that is prior to the date of this order, the Board will grant Mr. Sapp until June 14, 2004, to pay the first installment.

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

### **ORDER**

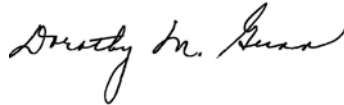
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that Mr. Sapp caused or allowed open dumping resulting in litter, a violation of 415 ILCS 5/21(p)(1) (2002), which was a second offense.
3. Mr. Sapp must pay a civil penalty of \$3,000 pursuant to 415 ILCS 5/42(b)(4-5) (2002). Mr. Sapp must pay the civil penalty in eighteen monthly installments of \$167, the first being due on June 14, 2004; and continuing on the fourteenth of each month thereafter until paid. Each installment must be made by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Mr. Sapp's federal employer identification number must be included on the certified check or money order.
4. Mr. Sapp must send the 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. The Board dismisses the alleged violation of Section 21(p)(3) of the Act. 415 ILCS 5/21(p)(3) (2002).
7. The Board dismisses Mr. Sapp's petition for review filed on September 8, 2003.
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) (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 June 3, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board