

ILLINOIS POLLUTION CONTROL BOARD

June 4, 1998

COUNTY OF JACKSON,)
)
 Complainant,)
)
 v.) AC 98-15
) (Administrative Citation)
 MICHAEL NOSOVITSKY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

This matter comes before the Board on an administrative citation filed February 23, 1998, by the County of Jackson (complainant) against Michael Nosovitsky (respondent) regarding respondent's facility located in Jackson County, Illinois. The administrative citation alleged that respondent had caused or allowed open dumping at his facility on or prior to January 15, 1998, in a manner which resulted in the following occurrences: (1) litter in violation of Section 21(p)(1) of the Environmental Protection Act (Act); and (2) open burning in violation of Section 21(p)(3) of the Act. 415 ILCS 5/21(p)(1), (p)(3) (1996). On March 18, 1998, respondent filed his petition for review of the administrative citation with the Board.

In an effort to resolve this matter, the parties have engaged in settlement negotiations and have reached a settlement agreement. On May 26, 1998, the parties filed a joint stipulation and proposal for settlement. Complainant agrees to withdraw the alleged violation against respondent for causing or allowing open burning in violation of 415 ILCS 5/21(p)(3) (1996). Respondent admits that he caused or allowed litter in violation of 415 ILCS 5/21(p)(1) (1996) and agrees to pay a statutory penalty of \$500. Respondent agrees to withdraw his petition for review filed with this Board.

Section 31.1(d)(1) of the Act (415 ILCS 5/31.1(d)(1) (1996)) authorizes the Board to impose a penalty upon making a finding of violation. The Board order will include that portion of the stipulation which allows for a finding of violation of Section 21(p)(1) of the Act (415 ILCS 5/21(p) (1996)), imposition of a \$500 penalty, withdrawal of the allegation relating to a Section 21(p)(3) violation, and dismissal of the petition for review. 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 finds, as admitted by Michael Nosovitsky (respondent), that respondent caused or allowed litter in violation of 415 ILCS 5/21(p)(1) (1996).
2. Respondent shall pay a statutory civil penalty in the sum of five hundred dollars (\$500) on or before July 6, 1998. Respondent shall make payment by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Illinois Environmental Protection Trust Fund, and shall send the payment by first class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

The certified check or money order must clearly indicate on its face respondent's Federal Employer Identification Number or Social Security Number, and that payment is directed to the Environmental Protection Trust Fund.

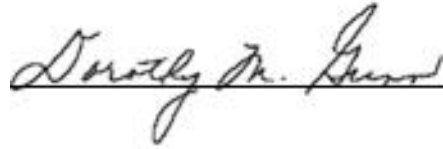
Any such penalty not paid within the time prescribed will incur interest at the rate set forth in subsection (a) of Section 1003 the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest does not accrue during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

3. The Board hereby dismisses the alleged violation against respondent for causing or allowing open burning in violation of 415 ILCS 5/21(p)(3) (1996), which was withdrawn by complainant.
4. Respondent's petition for review is hereby dismissed.

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 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions of 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 June 1998 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