

ILLINOIS POLLUTION CONTROL BOARD
October 1, 1998

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 98-37
)	(IEPA No. 256-98-AC)
JAMES HARRIS,)	(Administrative Citation)
)	
Respondent.)	

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

On June 15, 1998, the Illinois Environmental Protection Agency (Agency) filed an administrative citation with the Board naming James Harris (Harris) as respondent. The administrative citation was filed in response to observed violations that occurred on May 5, 1998, and alleges that Harris caused or allowed litter in violation of Section 21(p)(1) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1) (1996). The Board received respondent's petition for review on July 13, 1998, and accepted this case for hearing on July 23, 1998.

On September 18, 1998, the parties filed a joint stipulation of settlement and dismissal of respondent's petition for administrative review (stipulation). In the stipulation, Harris admits the alleged violations and agrees to pay a civil penalty of \$500. Harris must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations. Both parties agree that, contingent upon the Board's acceptance and adoption of the terms and conditions of the stipulation, the petition for review shall be dismissed.

Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (1996)) authorizes the Board to impose a civil penalty pursuant to Section 42(b)(4) of the Act (415 ILCS 5/42(b)(4) (1996)) for a violation of the Act as alleged in an administrative citation. However, Section 31.1(d) of the Act limits the relief that the Board can order in an administrative citation action, and the compliance conditions as outlined by the parties in the joint stipulation are not within the Board's authority.

The Board order will, therefore, include that portion of the stipulation which finds a violation of Section 21(p)(1) of the Act and imposes a \$500 penalty. The additional terms of the stipulation will not be included in the Board order. These agreements may be enforceable as a matter of contract law or be alleged as aggravating factors in any future enforcement action brought pursuant to Section 31 of the Act. 415 ILCS 5/31 (1996). However, this

settlement agreement in no way affects respondent's ability to comply with any federal, state, or local regulations including, but not limited to, the Act and the Board's regulations.

This opinion constitutes the Board's findings of fact and conclusion of law in this matter.

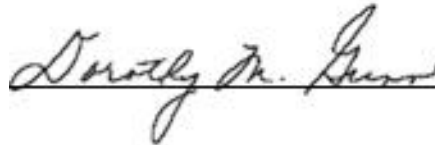
ORDER

1. The Board finds that the respondent, James Harris, caused or allowed litter in violation of 415 ILCS 5/21(p)(1) (1996).
2. James Harris shall pay the sum of \$500 by September 15, 1999. Such payment 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. The case number, case name, and James Harris' social security number or federal employer identification number shall also be included on the check (or money order) and should clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check (or money order) shall be sent 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
4. 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.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 1st day of October 1998 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board