

ILLINOIS POLLUTION CONTROL BOARD
November 5, 1998

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 99-8
)	(IEPA No. 449-98-AC)
WILLIAM BURR and SHIRLEY BURR,)	(Administrative Citation)
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On August 31, 1998, the Illinois Environmental Protection Agency (Agency) filed an administrative citation with the Board naming William and Shirley Burr as respondents. The administrative citation was filed in response to observed violations that occurred on July 9, 1998, and alleges that respondents 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 respondents' petition for review on September 25, 1998, and accepted this case for hearing on October 1, 1998.

On October 27, 1998, the parties filed a joint stipulation of settlement and dismissal of respondents' petition for administrative review (stipulation). In the stipulation, respondents admit the alleged violation and agree to pay a civil penalty of \$500. Respondents must continue to comply with 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 order will also reflect the agreement upon the date by which the penalty must be paid. 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 respondents' responsibility 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

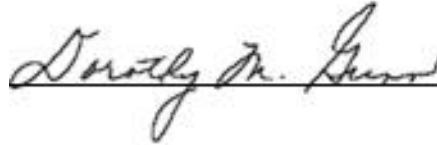
1. The Board finds that the respondents, William and Shirley Burr, caused or allowed litter in violation of 415 ILCS 5/21(p)(1) (1996).
2. Respondents shall pay the sum of \$500 by November 1, 1999. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund. The case number, case name, and respondents social security numbers 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.

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 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 5th day of November 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