

ILLINOIS POLLUTION CONTROL BOARD  
January 20, 2005

COUNTY OF SANGAMON,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 05-36
	)	(SCDPH No. 04-AC-3)
LELAND COLE,	)	(Administrative Citation)
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

By this order, the Board vacates its January 6, 2005 order. The Board had found the respondent, Leland Cole, in default for violations of Section 21(p)(1) and (p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(3) (2002)). The Board assessed a civil penalty of \$3,000 by that prior order. This order accepts a stipulation and settlement agreement filed by the parties on January 6, 2005, and received after the conclusion of the January 6, 2005 Board meeting. To implement that agreement, this order finds that Leland Cole violated Section 21(p)(1) of the Act, assesses a civil penalty of \$1,500, and dismisses that portion of the administrative citation that relates to an alleged violation of Section 21(p)(3) of the Act.

On November 9, 2004, the County of Sangamon timely filed an administrative citation against Leland Cole. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The County of Sangamon alleged that on September 19, 2004 Leland Cole violated Section 21(p)(1) and (p)(3) of the Act. The County of Sangamon further alleges that Leland Cole violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter and (2) open burning at 6208 Reinder, Springfield, Sangamon County. Having received no petition for review within 35 days after the administrative citation was served on the respondent (415 ILCS 5/31.1(d)(1) (2002)), by December 14, 2004, the Board entered an order on January 6, 2005, finding that Leland Cole violated Section 21(p) of the Act.

On January 6, 2005, the County of Sangamon and Leland Cole filed a stipulation and proposed settlement. *See* 35 Ill. Adm. Code 108.208 and 108.500(c). Leland Cole denies the alleged violation(s) but agrees to pay a civil penalty of \$1,500. The County of Sangamon “releases, waives, and discharges [Leland Cole] from any violations of the Act or Board’s regulations which were the subject matter of the Administrative Citation herein.” Proposed Stipulation and Settlement Agreement at 8.

The Board accepts the stipulation and proposed settlement agreement. To effectuate the parties’ agreement, the Board undertakes the following actions: (1) the Board vacates the order of January 6, 2005 that directed Leland Cole to pay \$3,000 for separate violations of Sections 21(p)(1) and 21(p)(3) of the Act (415 ILCS 5/21(p)(1) and (p)(3) (2002)); (2) the Board directs

Leland Cole to pay a civil penalty in the amount of \$1,500 for violation of Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2002)); and (3) the Board dismisses that portion of the November 9, 2004 administrative citation the pertains to Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2002)).

### **ORDER**

1. The Board vacates the order of January 6, 2005, in this matter.
2. The Board accepts and incorporates by reference the stipulation and proposed settlement.
3. Pursuant to the stipulated agreement, the alleged violation of Section 21(p)(3) of the Act is dismissed. The Board finds that Leland Cole violated Section 21(p)(1) of the Act, and must pay a civil penalty of \$1,500 no later than February 21, 2005, which is the first business day after the 30th day after the date of this order.
4. Leland Cole must pay the civil penalty by certified check or money order, made payable to the Sangamon County Department of Public Health. The number, case name, and Leland Cole's social security number or federal employer identification number must be included on the certified check or money order.
5. Leland Cole must send the certified check or money order and the remittance form to the following person at the indicated address:
 

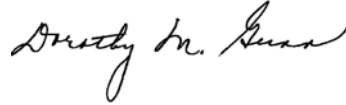
James D. Stone, Director  
Sangamon County Department of Public Health  
2501 North Dirksen Parkway  
Springfield, Illinois 62702
6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
7. Payment of this penalty does not prevent future prosecution if the violations continue.

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 January 20, 2005, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board