

ILLINOIS POLLUTION CONTROL BOARD
June 16, 2005

COUNTY OF KANKAKEE,)
)
Complainant,)
)
v.) AC 05-66
) (Kankakee County No. 05-01)
MUNICIPAL TRUST AND SAVINGS BANK) (Administrative Citation)
TRUST #1697,)
)
Respondent.)

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

On April 21, 2005, the County of Kankakee timely filed an administrative citation against Municipal Trust and Savings Bank Trust #1697. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The County of Kankakee alleged that on March 30, 2005, Municipal Trust and Savings Bank Trust #1697 violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2002)). The County of Kankakee further alleges that Municipal Trust and Savings Bank Trust #1697 violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; (2) open burning; and (3) deposition of general construction or demolition debris or clean construction or demolition debris at 4661 East Road, Kankakee, Kankakee County.

As required, the County of Kankakee served the administrative citation on Municipal Trust and Savings Bank Trust #1697 within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 108.202(b). To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. 415 ILCS 5/31.1(d)(1) (2002); 35 Ill. Adm. Code 108.204(b), 108.406. Here, any petition for review was due on May 30, 2005, the first business day after the 35th day after service of the administrative citation on Municipal Trust and Savings Bank Trust #1697. Municipal Trust and Savings Bank Trust #1697 failed to timely file a petition. Accordingly, the Board finds that Municipal Trust and Savings Bank Trust #1697 violated Section 21(p) of the Act.

The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500(a). Because there are three violations of Section 21(p) and these violations are first offenses, the total civil penalty is \$4,500. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

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

ORDER

1. The Board finds that Municipal Trust and Savings Bank Trust #1697 violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act as alleged. Municipal Trust and Savings Bank Trust #1697 must pay a civil penalty of \$4,500 no later than July 18, 2005, which is the first business day after the 30th day after the date of this order.
2. Municipal Trust and Savings Bank Trust #1697 must pay the civil penalty by certified check or money order, made payable to the County of Kankakee. The case number, case name, and Municipal Trust and Savings Bank Trust #1697's social security number or federal employer identification number must be included on the certified check or money order.
3. Municipal Trust and Savings Bank Trust #1697 must send the certified check or money order and the remittance form to:

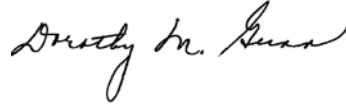
County of Kankakee
Planning Department, Solid Waste Division
189 East Court Street, Suite 200
Kankakee, Illinois 60901

4. 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)).
5. 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 June 16, 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