

ILLINOIS POLLUTION CONTROL BOARD

November 17, 2005

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 05-52
)	(IEPA No. 9-05-AC)
ROBERT DANIEL SPEARS,)	(Administrative Citation)
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On February 3, 2005, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Robert Daniel Spears (Spears). See 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that on December 15, 2004, Robert Daniel Spears violated Section 21(p)(1) and (p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(3) (2004)). The Agency further alleges that Robert Daniel Spears 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 4791 U.S. Highway 67, Beardstown, Cass County.

On February 24, 2005, Spears timely filed a petition to contest the administrative citation. Spears alleges that he vacated the property on November 6, 2004, when his ex-wife took over and occupied the property. The Board accepted the petitions for hearing on March 3, 2005.

On November 2, 2005, the parties filed a stipulation of settlement and dismissal of Spears' petition for review. Pursuant to the terms of the stipulation and proposal for settlement, Spears admits he caused or allowed open dumping resulting in litter, and agrees to pay a civil penalty of \$1,500.

The parties agree that the waste located at the site that was the subject of the administrative citation has been removed and properly disposed.

The Board accepts the stipulation and proposal for settlement. Pursuant to Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2004), the Board finds that Spears has violated Section 21(p)(1) of the Act. 415 ILCS 5/21(p)(1) (2004). Under Section 42(b)(4-5), the statutory established penalty is \$1,500 for a first-time violation. 415 ILCS 5/42(b)(4-5) (2004). The Board accordingly assesses a civil penalty of \$1,500. To effectuate the parties' intent that Spears pay a total civil penalty of \$1,500, the Board dismisses the alleged violations of Section 21(p) (3).

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

ORDER

Pursuant to the stipulated agreement, the Board finds that Robert Daniel Spears (Spears) violated Section 21(p) (1) of the Act. 415 ILCS 5/21(p)(1) (2004).

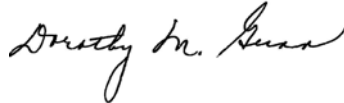
1. Spears must pay a civil penalty of \$1,500 pursuant to 415 ILCS 5/42(b)(4-5) (2004).
2. Spears must pay the civil penalty on or before December 19, 2005, the first business day after the thirtieth day following the date of this order. The payment must be made by certified check, money order or electronic funds transfer, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Spears' social security number or federal employer identification number must be included on the certified check or money order. If submitting an electronic funds transfer to the Agency, the electronic funds transfer must be made in accordance to the specific instructions provided to Spears.
3. Spears must send the certified check, money order, or electronic funds transfer, and the remittance form to:

Illinois Environmental Protection Agency Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
5. The Board dismisses the alleged violation of Sections 21(p) (3) of the Act. 415 ILCS 5/21(p)(3) (2004).
6. Spears' February 24, 2005 petition for review is dismissed.
7. Spears must diligently comply with, and cease and desist from further violations of, the Act (415 ILCS 5/1 *et seq.* (2004)), and the Board's rules and regulations. 35 Ill. Adm. Code Subtitles A through H.
8. The Agency will not refer the violations that are the subject of this administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority for the initiation of a criminal or civil action.

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) (2004); *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, hereby certify that the Board adopted the above opinion and order on November 17, 2005, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board