

ILLINOIS POLLUTION CONTROL BOARD  
April 20, 2006

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 04-59
	)	(IEPA No. 135-04-AC)
TIM WALKER,	)	(Administrative Citation)
	)	
Respondent.	)	

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

On April 5, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Tim Walker. *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleged that on May 8, 2004, Tim Walker 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 Tim Walker violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; and (2) open burning. The alleged violations occurred at a site located at 3610 Christmas Tree Road, Decatur, Macon County.

As required, the Agency served the administrative citation on Tim Walker within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2004); *see also* 35 Ill. Adm. Code 108.202(b). On May 5, 2004, Tim Walker timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 108.204(b). Tim Walker denied the alleged violations and asserted that any violations which may have occurred were a result of uncontrollable circumstances. *See* 35 Ill. Adm. Code 108.206. The Board accepted the petition for hearing by an order dated May 20, 2004.

On April 17, 2006, the Agency and Tim Walker filed a stipulation and proposed settlement and dismissal of respondent’s petition for review. *See* 35 Ill. Adm. Code 108.208 and 108.500(c). Tim Walker agrees to the following: (1) dismissal of his petition for review; (2) a Board finding that he violated Section 21(p)(3) of the Act; and (3) payment of a civil penalty of \$1,500 on the finding of violation. The Agency agrees to dismissal of the administrative citation as to the violation of Section 21(p)(1) of the Act. The Agency further agrees not to refer these alleged violations to the Office of the Attorney General or any other prosecuting authority for the initiation of a civil enforcement action. The parties stipulate that the waste that is the subject of this administrative citation has been removed from the site and properly disposed of.

The Board accepts the stipulation and proposed settlement agreement. To effectuate the parties’ agreement, the Board directs Tim Walker to pay a civil penalty in the amount of \$1,500. The Board further dismisses the May 5, 2004 petition for review.

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

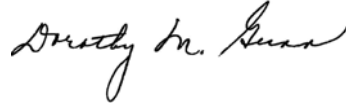
**ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the alleged violation of Section 21(p)(1) of the Act and the May 5, 2004 petition for review are dismissed. The Board finds that Tim Walker violated Section 21(p)(3) of the Act, and must pay a civil penalty of \$1,500 no later than May 22, 2006, which is the first business day after the 30th day after the date of this order.
3. Tim Walker must pay the civil penalty by certified check or money order, made payable to the Environmental Protection Trust Fund. The number, case name, and Tim Walker's social security number or federal employer identification number must be included on the certified check or money order.
4. Tim Walker must send the certified check or money order and the remittance form to the following person at the indicated address:  
  
Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276
5. 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)).
6. 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) (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, certify that the Board adopted the above opinion and order on April 20, 2006, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board