

ILLINOIS POLLUTION CONTROL BOARD
May 18, 2006

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 05-18
)	(IEPA No. 409-04-AC)
WILLIAM SHRUM,)	(Administrative Citation)
)	
Respondent.)	

MICHELLE M. RYAN, SPECIAL ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT; and

KEVIN J. BABB APPEARED ON BEHALF OF WILLIAM SHRUM.

OPINION AND ORDER OF THE BOARD (by A.S. Moore):

On March 16, 2006, the Board issued an interim opinion and order finding that William Shrum (respondent) violated Section 21(p)(1) and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and 21(p)(7) (2004)) at a site located near Tamaroa, Perry County. These violations were alleged in an administrative citation issued by the Illinois Environmental Protection Agency (Agency). Having received documentation of hearing costs in this administrative citation enforcement action, the Board today issues its final opinion and order.

In the interim opinion and order the Board found that respondent violated Section 21(p)(1) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1) and (p)(7) (2004)) by causing or allowing the open dumping of waste resulting in litter and the deposition of general construction or demolition debris or clean construction or demolition debris. The allegation arose from a July 2, 2004 inspection by the Agency.

Because there are two violations of Section 21(p) of the Act (415 ILCS 5/21(p) (2004)) and the respondent has previously violated subsection (p)(1) (County of Perry v. William Shrum, AC 02-1, slip op. at 1 (Sept. 6, 2001)), the total civil penalty is \$4,500. *See* 415 ILCS 5/42(b)(4-5) (2004). Further, because a hearing was held in this proceeding and respondent did not prevail, respondent is also liable for hearing costs. 35 Ill. Adm. Code 108.502, 108.504. The hearing was held on November 17, 2005, at the Perry County Courthouse in Pinckneyville.

On March 22, 2006, the Clerk of the Board submitted an affidavit of the Board's hearing costs totaling \$204.85. On March 30, 2006, the Agency filed a statement of hearing costs totaling \$102.03. Respondent has not responded to either statement of costs. *See* 35 Ill. Adm. Code 108.506(a) (setting 21-day deadline for response).

The Board finds the hearing costs of the Board and the Agency reasonable and orders respondent to pay those costs under Section 42(b)(4-5) of the Act. 415 ILCS 5/42(b)(4-5) (2004). The Board incorporates by reference the findings of fact and conclusions of law from its March 16, 2006 interim opinion and order. Under Section 31.1(d)(2) of the Act, the Board attaches the administrative citation and makes it part of the Board's final order.

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

ORDER

1. The Board finds that respondent Mr. William Shrum violated Section 21(p)(1) and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and 21(p)(7) (2004)) near Tamaroa, Perry County.
2. The Board assesses the civil penalty of \$4,500 for the violations, as well as hearing costs totaling \$306.88 for a total amount of \$4,806.88. Respondent must pay \$4,806.88 no later than July 3, 2006, which is the first business day after the 45th day from the date of this order. Respondent must pay this amount by certified check or money order, made payable to the Environmental Protection Trust Fund. The case numbers, case name, and Respondent's social security number or federal employer identification number must be included on the certified check or money order.
3. Respondent must send the certified check or money order to:

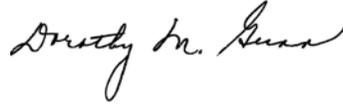
Illinois Environmental Protection Agency
Fiscal Services
1020 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
5. 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 May 18, 2006, 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