

ILLINOIS POLLUTION CONTROL BOARD
May 18, 2006

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 05-63
)	(IEPA No. 78-05-AC)
JOHN MALLOCH,)	(Administrative Citation)
)	
Respondent.)	

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

JOHN R. MALLOCH APPEARED *PRO SE*.

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

On March 16, 2006, the Board issued an interim opinion and order, finding that John R. Malloch (respondent) violated Section 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), 21(p)(3), and 21(p)(7) (2004)) at a site located at 2572 County Road 600E, Dewey, Champaign 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), 21(p)(3), and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), 21(p)(3), and 21(p)(7) (2004)) by causing or allowing the open dumping of wastes on his property resulting in litter, open burning, and the deposition of general construction or demolition debris or clean construction or demolition debris. The allegation arose from a March 2, 2005 inspection by the Agency.

Because there are three violations of Section 21(p) of the Act (415 ILCS 5/21(p) (2004)) and these violations are first offenses, the total civil penalty is \$4,500. Further, because the Board held a hearing on November 2, 2005, at Champaign City Hall at which respondent did not prevail, respondent is also liable for hearing costs. 35 Ill. Adm. Code 108.502, 108.504.

On March 22, 2006, the Clerk of the Board submitted an affidavit of the Board's hearing costs totaling \$185.25. On March 30, 2006, the Agency filed a statement of hearing costs totaling \$104.35. 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. John R. Malloch violated Section 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(3), and 21(p)(7) (2004)) at 2572 County Road 600E, Dewey, Champaign County.
2. The Board assesses the civil penalty of \$4,500 for the violations, as well as hearing costs totaling \$289.70 for a total amount of \$4,789.70. Respondent must pay \$4,789.70 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:

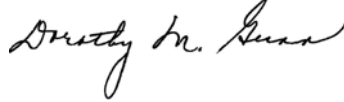
Illinois Environmental Protection Agency
Fiscal Services
1020 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of 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 black ink, appearing to read "Dorothy M. Gunn". The signature is written in a cursive style with a large, looping initial "D".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board