

ILLINOIS POLLUTION CONTROL BOARD  
June 15, 2006

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 05-17
	)	(IEPA No. 349-04-AC)
ROGER and JOAN MILLER,	)	(Administrative Citation)
	)	
Respondents.	)	

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

On August 26, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Roger Miller and Joan Kay Miller (respondents). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that on June 16, 2004 the respondents violated Section 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 Agency further alleges that the respondents 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 1409 South Division Street, Mahomet, Champaign County.<sup>1</sup>

As required, the Agency served the administrative citation on Roger and Joan Miller 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 September 13, 2004, Roger and Joan Miller timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 108.204(b). Among other things, Roger and Joan Miller alleged that the presence of a *de minimis* amount of non-landscape waste material in landscape waste was the result of an uncontrollable circumstance. *See* 35 Ill. Adm. Code 108.206. The Board accepted the petition for hearing by an order dated September 16, 2004.

On June 1, 2006, the Agency and Roger Miller 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). In that document, the Agency and Roger Miller represent that Joan Miller was no longer an owner of the property at the time of the inspection on June 16, 2004, so that she was improperly named as a respondent. The parties recommend dismissal of the administrative citation altogether as to Joan Miller. In the stipulation and proposed settlement, Roger Miller neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$1,500.

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<sup>1</sup> The original August 26, 2004 administrative citation listed the location as 600 West Cumberland, Greenup, Champaign County.

The Board accepts the stipulation and proposed settlement agreement. To effectuate the parties' agreement, the Board dismisses the administrative citation as to Joan Miller. The Board directs Roger Miller to pay a civil penalty in the amount of \$1,500. The Board further dismisses the August 26, 2004 petition for review.

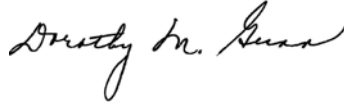
This opinion constitutes the Board's findings of fact and conclusions of law.

### **ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the alleged violations of Section 21(p)(1), (p)(3), and (p)(7) of the Act are dismissed as to Joan Miller. The Board finds that Roger Miller violated Section 21(p)(3) of the Act, and must pay a civil penalty of \$1,500 no later than July 17, 2006, which is the first business day after the 30th day after the date of this order.
3. Pursuant to the stipulated agreement, the alleged violations of Section 21(p)(1) and (p)(7) of the Act and the September 13, 2004 petition for review are dismissed. The Board finds that Roger Miller violated Section 21(p)(3) of the Act, and must pay a civil penalty of \$1,500 no later than July 17, 2006, which is the first business day after the 30th day after the date of this order.
4. Roger Miller must pay the civil penalty by certified check or money order, made payable to the Environmental Protection Trust Fund. The number, case name, and Roger Miller's social security number or federal employer identification number must be included on the certified check or money order.
5. Roger Miller 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
6. 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)).
7. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 15, 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