

ILLINOIS POLLUTION CONTROL BOARD

February 15, 2007

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 05-8
	)	(IEPA No. 330-04-AC)
TED HARRISON and GERALD S. GILL,	)	(Administrative Citation)
	)	
Respondents.	)	

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On July 19, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Mr. Ted Harrison and Mr. Gerald S. Gill (respondents). See 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that respondents violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(7) (2004)). The Agency further alleges that Mr. Harrison and Mr. Gill violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter and the deposition of general or clean construction or demolition debris at a soil treatment facility located east of Garner Road in the southeast quarter of Section 35, T. 18 N, R 10 W, in Sangamon Valley Township, Cass County. Virginia/Ted Harrison Oil was owned formerly by Mr. Harrison and is owned currently by Mr. Gill. Today's order accepts the stipulation between the Agency and Mr. Harrison and dismisses the administrative citation as to Mr. Gill.

As required, the Agency served the administrative citation on the respondents 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). To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violation alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2002); 35 Ill. Adm. Code 108.204(b), 108.406.

Mr. Harrison timely filed a petition for review on August 23, 2004. Mr. Gill's petition for review was timely postmarked August 20, 2004. See 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 108.204(b). On February 6, 2007, the Agency and Mr. Harrison filed a stipulation and proposed settlement, accompanied by a request for dismissal of the respondent's petition for review. Pursuant to the terms of the proposed settlement, Mr. Harrison neither admits nor denies the alleged violation of Section 21(p)(1), but agrees to pay a \$1,500 civil penalty. 415 ILCS 5/42(b)(4-5) (2004). To effectuate the parties' intent that Mr. Harrison pay a total penalty of only \$1,500, the Board dismisses the alleged violation of Section 21(p)(7) of the Act. The Board accepts the stipulation and proposed settlement.

Also on February 6, 2007, the Agency filed a motion to voluntarily dismiss this administrative citation against Mr. Gill. The Board grants the Agency's motion and dismisses the administrative citation against Mr. Gill.

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

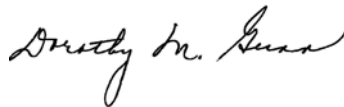
### **ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the Board dismisses Mr. Harrison's petition for review, filed August 23, 2004. The Board dismisses the alleged violation of Section 21(p)(7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(7) (2004). The Board finds that Mr. Harrison neither admits nor denies that he caused or allowed open dumping in violation of Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)), but must pay a civil penalty of \$1,500 pursuant to 415 ILCS 5/42(b)(4-5) (2004).
3. Mr. Harrison must pay the \$1,500 civil penalty no later than March 17, 2007, which is the 30th day after the date of this order. Mr. Harrison must pay the civil penalty by certified check or money order, payable to Environmental Protection Trust Fund. The case number, case name, and Mr. Harrison's social security number or federal employer identification number must be included on the certified check or money order.
4. Mr. Harrison must send the certified check or money order to:  
  
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 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 violation continues.

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 February 15, 2007, 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