

ILLINOIS POLLUTION CONTROL BOARD  
February 5, 2015

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 14-38
	)	(IEPA No. 51-14-AC)
LONE OAK ENTERPRISES, INC. and	)	(Administrative Citation)
LOMAX & SONS CONSTRUCTION,	)	
	)	
Respondents.	)	

OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

For the reasons below, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action. The Illinois Environmental Protection Agency (Agency) timely filed an administrative citation on March 3, 2014, against Lone Oak Enterprises Inc. and Lomax & Sons Construction (respondents). The Agency alleged that on January 31, 2014, respondents violated Sections 21(p)(1), 21(p)(3) and 21(p)(7) of the Environmental Protection Act (Act) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of general or clean construction or demolition debris. 415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2012). The administrative citation also alleges that respondents violated Section 55(k)(1) of the Act by causing or allowing water to accumulate in used or waste tires. 415 ILCS 5/55(k)(1) (2012). The violation allegedly took place at respondents' facility located at 17247 East Illinois 142, Opdyke, Jefferson County (the Site). The property is commonly known to the Agency as the "Opdyke/Lone Oak-Lomax" site and is designated with Site Code No. 0818110002.

Respondents timely filed a petition to contest the administrative citation, which the Board accepted on April 17, 2014. On January 20, 2015, the parties filed a "stipulation of settlement and dismissal of respondents' petition for administrative review" (Stip.). Under its terms, respondents admit that they violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2012)) by open dumping resulting in litter at the Site and agree to pay the statutory civil penalty of \$1,500 for this violation. Stip. at 2. Respondents also agree to the dismissal of their petition contesting the administrative citation. *Id.* at 3. The stipulation further states that violations observed during the January 31, 2014 inspection are not continuing at this time. *Id.* Finally, the Agency agrees not to refer the violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a civil enforcement action. *Id.*

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act, the Board therefore finds that respondents violated Section 21(p)(1) of the Act. (415 ILCS 5/21(p)(1), 31.1(d) (2012)). Section 42(b)(4-5) of the Act establishes a civil penalty of

\$1,500 for this violation. 415 ILCS 5/42(b)(4-5) (2012). The Board accordingly assesses a civil penalty of \$1,500. To effectuate the parties' intent that respondents pay a total civil penalty of \$1,500, the Board dismisses the alleged violations of Sections 21(p)(3), (p)(7), and 55(k)(1) of the Act.

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

### **ORDER**

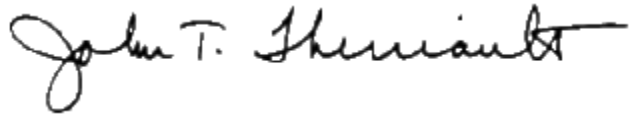
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that Lone Oak Enterprises Inc. and Lomax & Sons Construction (respondents) violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2012)).
3. Respondents must pay a civil penalty of \$1,500 no later than March 9, 2015, which is the first business day following the 30th day after the date of this order. Respondents must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondents' social security numbers or federal employer identification numbers must be included on the certified check or money order.
4. Respondents 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 Environmental Protection Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
6. The Board dismisses the alleged violations of Sections 21(p)(3), (p)(7) and 55(k)(1) of the Act (415 ILCS 5/21(p)(3), (p)(7), 55(k)(1) (2012)) and respondents' petition to contest the administrative citation.

IT IS SO ORDERED.

Section 41(a) of the 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) (2012); *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, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 5, 2015 by a vote of 4-0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

RECEIVED  
CLERK'S OFFICE  
MAR 03 2014

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
Complainant, )  
v. )  
LONE OAK ENTERPRISES, INC. and )  
LOMAX & SONS CONSTRUCTION, )  
Respondents. )

AC 14-38  
(IEPA No. 51-14-AC)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2012).

FACTS

1. That Lone Oak Enterprises, Inc. is the current property owner and Lone Oak Enterprises, Inc. and Lomax & Sons Construction are the current operators ("Respondents") of a facility located at 17247 East Illinois 142, Opdyke, Jefferson County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Opdyke/Lone Oak-Lomax.
2. That said facility is designated with Site Code No. 0818110002.
3. That Respondents have owned/operated said facility at all times pertinent hereto.
4. That on January 31, 2014 Maggie Stevenson of the Illinois Environmental Protection Agency's ("Illinois EPA") Marion Regional Office inspected the above-described facility. A copy of the inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 2-27-14, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 3000 7657 - Lone Oak Enterprises  
7012 0470 0001 3000 7664 - Lomax & Sons

VIOLATIONS

Based upon direct observations made by Maggie Stevenson during the course of the January 31, 2014 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2012).
- (2) That Respondents caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2012).
- (3) That Respondents caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris: or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2012).
- (4) That Respondents caused or allowed water to accumulate in used or waste tires, a violation of Section 55(k)(1) of the Act, 415 ILCS 55(k)(1) (2012).

### CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2012), Respondents are subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Six Thousand Dollars (\$6,000.00). If Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than April 15, 2014, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2012), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2012), if Respondents fail to petition or elect not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondent's check shall be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Along with payment, Respondents shall complete and return the enclosed Remittance Form to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondents from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS  
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2012). If Respondents elect to contest this Administrative Citation, then Respondents shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondents.

*Lisa Bonnett* ~~WSE~~

Date:

2-26-14

Lisa Bonnett, Director  
Illinois Environmental Protection Agency

Prepared by: Susan E. Konzelmann, Legal Assistant  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544



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MAR 03 2014

STATE OF ILLINOIS  
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 LONE OAK ENTERPRISES, INC. and )  
 LOMAX & SONS CONSTRUCTION, )  
 )  
 )  
 Respondents. )

AC 14-38  
 (IEPA No. 51-14-AC)

FACILITY: Opdyke/Lone Oak-Lomax  
 SITE CODE NO.: 0818110002  
 COUNTY: Jefferson  
 CIVIL PENALTY: \$6,000  
 DATE OF INSPECTION: January 31, 2014

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.