

ILLINOIS POLLUTION CONTROL BOARD
March 23, 2017

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| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | AC 13-41 |
| |) | (IEPA No. 57-13-AC) |
| ROBERT & TIA MIXER, |) | (Administrative Citation) |
| |) | |
| Respondents. |) | |

OPINION AND ORDER OF THE BOARD (by J.A. Burke):

For the reasons below, the Board accepts the proposed settlement and dismisses this administrative citation enforcement action. The Illinois Environmental Protection Agency (Agency) timely filed an administrative citation on March 28, 2013 against Robert and Tia Mixer. The Agency alleged that on February 4, 2013, respondents violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2014)) by causing or allowing the open dumping of waste in a manner resulting in litter at the property. The violation allegedly took place at respondents' facility located immediately northwest of the intersection of Illinois Route 104 and East 1600th Street east of Quincy, Adams County. The property is commonly known to the Agency as the "Gilmer Township/Mixer" site and is designated with Site Code No. 0018085007.

Respondents timely filed a petition to contest the administrative citation, which the Board accepted on May 16, 2013. On March 15, 2017, the parties filed a "stipulation of settlement and dismissal of respondents' petition for administrative review." Under its terms, respondents admit that they violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2014)) by causing or allowing litter at the facility, and agree to pay the statutory civil penalty of \$1,500 for this violation. Stipulation at 2. Respondents also agree to the dismissal of their petition contesting the administrative citation. *Id.* at 3. The stipulation further states that the violation that was the subject of this administrative citation is not continuing at this time. *Id.* at 2. In addition, the Agency agrees not to refer the violation 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 (415 ILCS 5/31.1(d) (2014)), the Board therefore finds that respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2014)). Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2014)) establishes a civil penalty of \$1,500 for this violation. The Board accordingly assesses a civil penalty of \$1,500.

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 Robert and Tia Mixer violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2014)).
3. Respondents must pay a civil penalty of \$1,500 no later than April 24, 2017, 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 name, case number, and respondents' social security numbers must appear on the face of 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) (2014)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)).
6. The Board dismisses respondents' petition to contest the administrative citation.

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) (2014); *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, Don A. Brown, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 23, 2017, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, circular initial "D".

Don A. Brown, Assistant Clerk
Illinois Pollution Control Board